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TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration, Department of Agriculture

Subchapter B—Federal Land Banks, National Farm Loan Associations, Federal Farm Mortgage Corporation, and Joint Stock Land Banks

MISCELLANEOUS AMENDMENTS

Parts 10, 11, 12 and 19 are amended as follows:

PART 10—FEDERAL LAND BANKS

NOTE: In §§ 10.3 to 10.530–51, inclusive, the numbers to the right of the decimal point correspond with the respective section numbers in the Policy and Operations Manuals for Federal Land Banks.

Sections 10.10, 10.10–50, 10.25, 10.27–50, 10.28, 10.29, 10.31, and 10.182–50 of Title 6, Code of Federal Regulations, are hereby revoked, §§ 10.9, 10.21, 10.22, 10.23, 10.25, and 10.27 are added, and §§ 10.1 (b), 10.2 (b), (c), and (e), 10.101, 10.104, 10.105, 10.110, 10.117, and 10.183 are amended to read as follows:

§ 10.1 *Organization of Federal Land Banks.* * * *

(b) Under the provisions of the act it was contemplated that the capital stock of the Federal land banks ultimately would be owned entirely by borrowers through their national farm loan associations and some few direct borrowers, although provision also has been made for subscriptions to such stock by the United States. As of July 1, 1947, all United States owned stock in these banks had been retired.

§ 10.20 *Functions and procedures of Federal land banks.* * * *

(b) *Agents for Federal Farm Mortgage Corporation.* The Federal land banks also act as agents in servicing Land Bank Commissioner loans on behalf of the Federal Farm Mortgage Corporation.

(c) *Loans.* The principal function of the Federal land banks is to make first mortgage loans on farm land to eligible applicants for the purposes and on the terms prescribed in the Federal Farm Loan Act. These bank loans are limited to 65 percent of the normal value of the security and may not exceed $50,000 to any one borrower. The maximum term for loans is 40 years, but they are commonly made for a shorter period. The present contract interest rate on Federal land bank loans made through national farm loan associations is 4 percent.

An application for a loan, on a prescribed form available from the banks and associations, is filed with the secretary-treasurer of the national farm loan association in the territory in which the property offered as security is located. The application calls for information regarding the amount and purposes of the loan sought, the security offered, and the applicant's financial condition. As a first step, the Federal Farm Loan Act provides for an investigation as to the character and solvency of the applicant and the sufficiency of the security offered, by the association loan committee or its investigator, and for a written report thereon. The association loan committee may also request a written report on the value of the security by a land bank appraiser, who is a public official appointed by the Farm Credit Administration. Where such a report by an appraiser has been obtained, the association may notify the applicant of any loan approved by it, subject to further approval by the Federal land bank.

The application and written report of the association loan committee, as well as any report by a land bank appraiser, are next referred to the Federal land bank; if there has been no report by a land bank appraiser, the bank will then obtain one. No loan may be made by the bank unless the reports of both the association and the land bank appraiser are favorable. On the basis of the association approval and the favorable report by a land bank appraiser, the Federal land bank determines the amount of any loan that can be soundly made. The actual passing on applications in each bank is usually done by a loan or executive committee, and notice of its action is duly given to the interested association and the applicant. Loans to livestock corporations in certain circumstances, and land bank loans in excess of $25,000, require the approval of the Land Bank Commissioner which may be given by authorized personnel in the districts (see §§ 3.8 and 3.9 of this chapter).

There are certain statutory provisions also for direct loans to borrowers by the Federal land banks and loans through agents, where they cannot be made through an association, but the general

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A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such in parentheses.

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plan is for the land bank loans to be made through associations.

* * * * *

(e) *Surplus property disposal.* The services and facilities of the Federal land banks are utilized further by the Federal Farm Mortgage Corporation in discharging its functions as disposal agency for surplus real property under the Surplus Property Act of 1944. A separate Surplus Property Disposal Manual has been issued to cover this work, Part 5 of this chapter.

§ 10.9 *Security standards.* To be acceptable security for a loan, a property must meet each of the following minimum standards:

(a) It must be capable of producing, under typical operation, sufficient normal agricultural earnings to pay farm operating expenses, including taxes and other fixed charges, maintain the property, and meet installments on a loan that would be proper to a typical owner of the property.

(b) It must be sufficiently desirable to be readily salable or rentable under normal agricultural conditions.

(c) It must be sufficiently durable to maintain satisfactory production during the loan term specified.

(d) It must have sufficient stability of value to assure that, on a loan that would be proper to a typical owner of the property, the bank could recover its investment if unforeseen difficulties should result in acquirement of the property.

While the normal agricultural earnings must be sufficient to meet the expenses specified in paragraph (a) of this section, it is not necessary that they also be adequate in all cases to meet family living expenses. When it is necessary to rely on income other than farm earnings for family living expenses, such supplemental income must be available to the applicant and to a typical owner from dependable sources and in an amount sufficient to support customary living standards.

§ 10.21 *Normal agricultural value.* The normal agricultural value of a farm shall be the basis of appraisal for loans. This value may be defined as the amount a typical purchaser would, under usual conditions, be willing to pay and be justified in paying for the property for customary agricultural uses, including farm home advantages, with the expectation of obtaining average production and of receiving normal prices for farm commodities. For appraisal purposes, the earning power of farms shall be determined by using normal commodity prices based on those prevailing in the period 1909–14, with appropriate adjustment for changes in the economic position of particular commodities, and using the related farm operating costs. The normal commodity prices used in making appraisals shall be approved by the Farm Credit Administration.

§ 10.22 *Interest rates on loans made through an association or by a branch bank.* Approval is hereby given to an interest rate of 4 per centum per annum on loans by banks through associations, except loans on the security of the classes specified in § 10.23, and to an interest rate of 4½ per centum per annum on loans made pursuant to section 672, Title 12, United States Code, notwithstanding that the interest rate on the Federal farm loan bonds of the last series issued prior to the making of any such loans may be less than 3 per centum per annum.

§ 10.23 *Special interest rates.* For bank loans secured by first mortgages on the following farm property in the continental United States:

(a) Land that is employed primarily in the production of naval stores as defined by section 2 of the Naval Stores Act (Sec. 2, 42 Stat. 1435; 7 U. S. C. 92);

(b) Land used for the raising of livestock, in estimating the earning power and in establishing the value of which leases or permits for the use of other lands were taken into consideration and were a factor in determining the amount of the loan; and

(c) A farm property, a substantial part of the earnings from which is from orchard crops;

approval is hereby given to the following interest rates:

(1) For loans through associations, one-half of 1 per centum per annum in excess of the interest rate on loans through associations not secured by mortgages on the foregoing classes of farm property, such interest rate not to exceed 6 per centum per annum;

(2) For direct loans, one-half of 1 per centum per annum in excess of the interest rate approved for loans through associations under subparagraph (1) of this paragraph; and

(3) For loans under section 25 (b) of the Farm Credit Act of 1937 (50 Stat. 711; 12 U. S. C. Sup. 724) through associations, the capital stock of which is impaired, one-fourth of 1 per centum per annum less than the interest rate approved for direct loans under subparagraph (2) of this paragraph.

§ 10.25 *Special payments.* A bank may accept special payments on a bank loan or payment in full thereof either before or after 5 years from the date the loan was made. Where payment arises from the refinancing of the loan from a non-Government lending source and the loan has not been in force for at least 5 years, the bank may collect from the borrower such a sum as will reimburse it for the expense of making the loan. In all other cases of special principal payments or full payment of bank loans, the bank should not charge a prepayment fee nor should it ordinarily charge interest beyond the date the funds are received.

§ 10.27 *Conditional payments.* Conditional payments shall be held for subsequent credit upon indebtedness to the bank or the Corporation, except in cases of unusual circumstances where the release of the funds is justified. Interest shall be allowed on such payments held for more than 1 month at the effective interest rate applicable to the indebtedness in connection with which such conditional payment is held.

§ 10.101 *Executors and administrators (including temporary administrators).* Loans may be made to executors and administrators (including temporary administrators) when (a) either some individual beneficiary of the decedent's estate, or the executor, administrator, or any coexecutor or coadministrator of the estate, independently of his representative capacity, is (1) eligible as a borrower, and (2) owns, or is about to become the owner of, an interest in the property on which the loan is sought, and (3) can and will incur personal liability for the loan and assume the obligations of national farm loan association membership; and (b) a valid lien can and will be given on the property on which the loan is sought. As used in this section, the term "eligible as a borrower" means a person who is engaged in farming operations, or who is shortly to become engaged in farming operations, or who derives the principal part of his income from farming operations.

§ 10.104 *Trustees (whether appointed by will or deed), and other fiduciaries.* Loans may be made to trustees (whether appointed by will or deed) when (a) the trustee in his fiduciary capacity is engaged, or shortly to become engaged, in farming operations, or the beneficiaries of the trust are engaged in farming operations or derive the principal part of their income from farming operations; and (b) a valid lien can and will be given on the property on which the loan is sought; and (c) the trustee, or any cotrustee, or some individual beneficiary of the trust can and will incur personal liability for the loan, and assume the obligations of national farm loan association membership.

§ 10.105 *Guardians.* Loans may be made to guardians when (a) the guardian in his fiduciary capacity is engaged, or shortly to become engaged, in farming operations, or the wards are engaged in farming operations or derive the principal part of their income from farming operations; and (b) a valid lien can and will be given on the property on which the loan is sought; and (c) the guardian, or any coguardian, independently of his fiduciary capacity owns an interest in the property, and can and will incur personal liability for the loan and assume the obligations of national farm loan association membership.

§ 10.110 *Tenants for years.* Loans may not be made to tenants for years

ordinarily, although in certain circumstances a perpetual leasehold might constitute legally satisfactory security.

§ 10.117 *Corporations.* Loans may be made to corporations (in addition to those engaged in raising livestock) when acting solely in a representative or fiduciary capacity for individual beneficiaries: *Provided,* The conditions of §§ 10.101, 10.104 and 10.105 are satisfied.

§ 10.183 *Amount of insurance.* Insurance on buildings shall be required against such risks and in such amounts as the bank may determine to be necessary for adequate protection of the mortgagee's interest. In making the determination consideration should be given to the size of the loan in relation to the value of the security, the extent to which the buildings enter into such value, and the extent to which the borrower's ability to operate the property efficiently would be affected if a loss occurred and the buildings were not replaced. In closing loans the associations should notify the bank when the maximum amount of insurance obtainable is less than that required by the bank.

(39 Stat. 360, as amended, sec. 6, 47 Stat. 14, sec. 32 (b), 48 Stat. 48, sec. 25 (b), 50 Stat. 711; 12 U. S. C. and Sup., Chap. 7, Subchap. I, II)

PART 11—NATIONAL FARM LOAN ASSOCIATIONS

NOTE: In §§ 11.65 to 11.1025–64, inclusive, the numbers to the right of the decimal point correspond with the respective section numbers in the Policy and Operations Manuals of Federal Land Banks and the Manual for National Farm Loan Associations.

Sections 11.64–50, 11.64–51, and 11.65 of Title 6, Code of Federal Regulations, are hereby renumbered to read §§ 11.65, 11.66, 11.67, respectively; and § 11.2 paragraph (d) is amended to read as follows:

§ 11.2 *Functions and procedures of national farm loan associations.* * * *

(d) Further, the services and facilities of the associations may be utilized, if convenient, by the Federal Farm Mortgage Corporation in discharging its functions as disposal agency for surplus real property under the Surplus Property Act of 1944 (58 Stat. 765, as amended; 50 U. S. C. App. Sup., 1611–1646).

(Secs. 7, 8, 9, 12, 24, 29, 39 Stat. 365, 367, 368, 370, 379, 381, sec. 6, 47 Stat. 14, sec. 25 (d), 50 Stat. 713; 12 U. S. C. and Sup., 665, 716, 721, 733, 745, 771, 911, 965, 967)

PART 12—FEDERAL FARM MORTGAGE CORPORATION

The "Note" under authority for §§ 12.1 to 12.150 is hereby deleted.

Sections 12.28–25, 12.102, 12.106, 12.111, and 12.150 of Title 6 of Code of Federal Regulations are hereby revoked, and paragraphs (b) and (c) of § 12.2 are amended to read as follows:

§ 12.2 *Functions and procedures of Federal Farm Mortgage Corporation.* * * *

(b) *Land Bank Commissioner loans.* These loans were first authorized in section 32 of the Emergency Farm Mortgage Act of 1933 (48 Stat. 48, as amended; 12 U. S. C. and Sup. 1016) as a temporary measure and the authority to make them expired July 1, 1947.

When the Federal Farm Mortgage Corporation was created in 1934, there was transferred to it the Land Bank Commissioner loans which had already been made, and the Corporation was authorized to invest its funds in such loans to be made thereafter on its behalf. The land banks act as agents for the Corporation in servicing these loans.

(c) *Surplus property disposal.* The Federal Farm Mortgage Corporation has undertaken the functions of disposal agency for surplus real property under the Surplus Property Act of 1944. The functions of the Department of Agriculture as such disposal agency were delegated by the Secretary of Agriculture, subject to his general supervision and direction and to regulations approved by him, to the Governor of the Farm Credit Administration. They were redelegated by the Governor, subject to his general supervision and direction, to the Federal Farm Mortgage Corporation. The Corporation in turn utilizes the services and facilities of the Federal land banks in discharging these functions, and may also use the national farm loan associations if convenient. A separate Surplus Property Disposal Manual has been issued to cover this activity, Part 5 of this chapter.

(Sec. 33, 48 Stat., as amended, 12 U. S. C. 1017)

PART 19—FEES AND CHARGES ON LAND BANK AND COMMISSIONER LOANS

NOTE: In §§ 19.282 to 19.344, inclusive, the numbers to the right of the decimal point correspond with the respective section numbers in the Operations Manual for Federal Land Banks.

Sections 19.328 and 19.334 of Title 6, Code of Federal Regulations, are hereby revoked, and §§ 19.320 and 19.335 are amended to read as follows:

§ 19.320 *Applications; association fees.* Associations may collect an association application fee of not more than $5.00 in connection with each application; *Provided, however,* That the amount of any such fee shall not exceed 1 percent of the amount of the loan applied for. If the property offered as security is subject to any outstanding mortgage loan or loans held by the bank, the Corporation, or both, regardless of the amount stated in the application, the application fee shall be based on an amount applied for which includes the unmatured principal, as of the date of the application, of such outstanding mortgage loan or loans. The application fee may be collected at the time the application is filed. It may be retained by the association regardless of whether the loan is rejected or closed as a new, additional, or refunding bank loan; *Provided, however,* That if no association appraisal is made after a fee provided for in this section has been collected, the amount of such fee shall be refunded.

§ 19.335 *Appraisals; bank fees.* The fee deposits authorized by §§ 19.322, 19.330, 19.331, and 19.332 should be retained by the bank, if an appraisal is made of the property but in any such case where an appraisal is not made, the fee should be refunded in its entirety to the applicant. Where a reappraisal is required because of delay of the applicant or is made at his request, the applicant may be required to pay a second fee computed on the basis set forth in §§ 19.322, 19.330, 19.331, and 19.332.

(Secs. 7, 13, "Ninth," 39 Stat. 365, 372; 12 U. S. C. 723, 781 "Ninth")

[SEAL] J. R. ISLEIB,
Land Bank Commissioner.

[F. R. Doc. 47-9980; Filed, Nov. 7, 1947; 8:53 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

[Grapefruit Regulation 91]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.358 *Grapefruit Regulation 91*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR, Cum. Supp., 933.1 et seq.; 11 F. R. 9471), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the notice, public rule making procedure, and the 30-day effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong.; 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., November 10, 1947, and ending at 12:01 a. m., e. s. t., November 24, 1947, no handler shall ship:

(i) Any grapefruit of any variety, grown in the State of Florida, which grade U. S. No. 3, or lower than U. S. No. 3 grade (as such grades are defined in the United States standards for citrus fruits, as amended (12 F. R. 6277);

(ii) Any seeded grapefruit, other than pink grapefruit, grown in the State of Florida which are of a size smaller than a size that will pack 80 grapefruit, packed

in accordance with the requirements of a standard pack (as such pack is defined in the aforesaid amended United States standards), in a standard box (as such box is defined in the standards for containers for citrus fruit established by the Florida Citrus Commission pursuant to Section 3 of Chapter 20449, Laws of Florida, Acts of 1941 (Florida Laws Annotated Sec. 595.09));

(iii) Any seedless grapefruit, other than pink grapefruit, grown in the State of Florida which are of a size smaller than a size that will pack 96 grapefruit, packed in accordance with the requirements of a standard pack (as such pack is defined in the aforesaid amended United States standards), in a standard box (as such box is defined in the aforesaid standards for containers for citrus fruit); or

(iv) Any pink grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 126 grapefruit, packed in accordance with the requirements of a standard pack (as such pack is defined in the aforesaid amended United States standards), in a standard box (as such box is defined in the aforesaid standards for containers for citrus fruit).

(2) As used in this section, "variety," "handler," and "ship" shall have the same meaning as is given to each such term in said amended marketing agreement and order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 6th day of November 1947.

[SEAL] M. W. BAKER,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 47-9997; Filed, Nov. 7, 1947; 8:47 a. m.]

[Orange Regulation 128]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.359 *Orange Regulation 128*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR, Cum. Supp., 933.1 et seq.; 11 F. R. 9471), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the notice, public rule making procedure, and the 30-day effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong.; 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., November 10, 1947, and ending at 12:01 a. m., e. s. t., November 24, 1947, no handler shall ship:

(i) Any oranges, except Temple oranges, grown in the State of Florida which grade U. S. Combination Russet, U. S. No. 2 Russet, U. S. No. 3, or lower than U. S. No. 3 grade (as such grades are defined in the United States standards for citrus fruits, as amended (12 F. R. 6277); or

(ii) Any oranges, except Temple oranges, grown in the State of Florida which are of a size smaller than a size that will pack 250 oranges, packed in accordance with the requirements of a standard pack (as such pack is defined in the aforesaid amended United States standards), in a standard box (as such box is defined in the standards for containers for citrus fruit established by the Florida Citrus Commission pursuant to Section 3 of Chapter 20449, Laws of Florida, Acts of 1941 (Florida Laws Annotated Sec. 595.09)).

(2) As used in this section, "handler" and "ship" shall have the same meaning as is given to each such term in said amended marketing agreement and order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 6th day of November 1947.

[SEAL] M. W. BAKER,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 47-9995; Filed, Nov. 7, 1947; 8:47 a. m.]

[Tangerine Regulation 65]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.360 *Tangerine Regulation 65*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR, Cum. Supp., 933.1 et seq.; 11 F. R. 9471), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, issued under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the notice, public rule making procedure, and the 30-day effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong.; 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., November 10, 1947, and ending at 12:01 a. m., e. s. t., November 24, 1947, no handler shall ship:

(i) Any tangerines, grown in the State of Florida, which grade U. S. Combination Russet, U. S. No. 2 Russet, U. S. No. 3, or lower than U. S. No. 3 grade (as such grades are defined in the United States Standards for Tangerines, as amended (12 F. R. 2619)); or

(ii) Any tangerines, grown in the State of Florida, which are of a size smaller than the size that will pack 210 tangerines, packed in accordance with the requirements of a standard pack (as such pack is defined in the aforesaid amended United States Standards), in a half-standard box (inside dimensions 9½ x 9½ x 19⅛ inches; capacity 1,726 cubic inches).

(2) As used in this section, "handler" and "ship" shall have the same meaning as is given to each such term in said amended marketing agreement and order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 6th day of November 1947.

[SEAL] M. W. BAKER,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 47-9996; Filed, Nov. 7, 1947; 8:47 a. m.]

[Lemon Regulation 247]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.354 *Lemon Regulation 247*—(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 53 (7 CFR, Cum. Supp., 953.1 et seq.), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the notice, public rule

making procedure, and the 30-day effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 2d Sess.; 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., November 9, 1947, and ending at 12:01 a. m., P. s. t., November 16, 1947, is hereby fixed at 230 carloads, or an equivalent quantity.

(2) The prorate base of each handler who has made application therefor, as provided in the said marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," and "prorate base" shall have the same meaning as is given to each such term in the said marketing agreement and order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 6th day of November 1947.

[SEAL] M. W. BAKER,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

Storage Date: November 2, 1947

[12:01 a. m. Nov. 9, 1947, to 12:01 a. m. Nov. 23, 1947]

Handler	Prorate base (percent)
Total	100.000
Allen-Young Citrus Packing Co	.000
American Fruit Growers, Corona	.268
American Fruit Growers, Fullerton	.073
American Fruit Growers, Lindsay	.000
American Fruit Growers, Upland	.407
Consolidated Citrus Growers	.186
Hazeltine Packing Co	.314
McKellips, C. H.-Phoenix Citrus Co	.191
McKellips Mutual Citrus Growers Inc	.109
Phoenix Citrus Packing Co	.057
Ventura Coastal Lemon Co	3.565
Ventura Pacific Co	2.015
Total A. F. G	7.185
Arizona Citrus Growers	.294
Desert Citrus Growers Co	.288
Mesa Citrus Growers	.205
Klink Citrus Association	.371
Lemon Cove Association	.173
Glendora Lemon Growers Association	1.458
La Verne Lemon Association	.697
La Habra Citrus Association, The	.379
Yorba Linda Citrus Association, The	.166
Alta Loma Heights Citrus Association	.385
Etiwanda Citrus Fruit Association	.235
Mountain View Fruit Association	.282
Old Baldy Citrus Association	.959
Upland Lemon Growers Association	5.412
Central Lemon Association	.014
Irvine Citrus Association, The	.160
Placentia Mutual Orange Association	.259
Corona Citrus Association	.260
Corona Foothill Lemon Co	.879
Jameson Co	.545
Arlington Heights Citrus Co	.291
College Heights Orange & Lemon Association	4.600
Chula Vista Citrus Association, The	.741
El Cajon Valley Citrus Association	.000
Escondido Lemon Association	1.763
Fallbrook Citrus Association	1.235
Lemon Grove Citrus Association	.070
San Dimas Lemon Association	1.203
Carpinteria Lemon Association	4.258
Carpinteria Mutual Citrus Association	4.689
Goleta Lemon Association	4.785
Johnston Fruit Co	7.672
North Whittier Heights Citrus Association	.236
San Fernando Heights Lemon Association	1.641
San Fernando Lemon Association	.344
Sierra Madre-Lamanda Citrus Association	1.226
Tulare County Lemon & Grapefruit Association	.488
Briggs Lemon Association	3.147
Culbertson Investment Co	1.316
Culbertson Lemon Association	.971
Fillmore Lemon Association	1.119
Oxnard Citrus Association, Plant No. 1	4.565
Oxnard Citrus Association, Plant No. 2	3.425
Rancho Sespe	.477
Santa Paula Citrus Fruit Association	2.419
Saticoy Lemon Association	5.579
Seaboard Lemon Association	5.987
Somis Lemon Association	2.799
Ventura Citrus Association	2.305
Limoneira Co	2.002
Teague-McKevett Association	.442
East Whittier Citrus Association	.169
Leffingwell Rancho Lemon Association	.097
Murphy Ranch Co	.180
Whittier Citrus Association	.105
Whittier Select Citrus Association	.174
Total C. F. G. E	85.341
Arizona Citrus Products Co	.077
Chula Vista Mutual Lemon Association	.776
Escondido CoOperative Citrus Association	.179
Glendora CoOperating Citrus Association	.019
Index Mutual Association	.056
La Verne CoOperative Citrus Association	1.957
Libbey Fruit Co	.000
Orange CoOperative Citrus Association	.114
Pioneer Fruit Co	.145
Tempe Citrus Co	.077
Ventura Co. Orange & Lemon Association	1.892
Whittier Mutual Orange & Lemon Association	.026
Total M. O. D	5.318
Abbate, Chas. Co., The	.000
California Citrus Groves, Inc., Ltd	.093
Evans Bros. Packing Co.—Riverside	.014
Evans Bros. Packing Co.—Sentinel Butte Ranch	.192
Harding & Leggett	.393
Leppla-Pratt Produce Distributors Inc	.172
Morris Bros	.295
Orange Belt Fruit Distributors	0.744
Potato House, The	.000
San Antonio Orchard Co	.106
Valley Citrus Packing Co	.000
Verity, R. H., Sons & Co	.147
Total independents	2.156

[F. R. Doc. 47-9993; Filed, Nov. 7, 1947; 8:47 a. m.]

[Orange Regulation 203]

PART 966—ORANGES GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 966.349 *Orange Regulation 203*—(a) *Findings.* (1) Pursuant to the provisions of Order No. 66 (7 CFR, Cum. Supp., 966.1 et seq.) regulating the handling of oranges grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of the quantity of such oranges which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the notice, public rule making procedure, and the 30-day effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 2d Sess., 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) The quantity of oranges grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., November 9, 1947, and ending at 12:01 a. m., P. s. t., November 16, 1947, is hereby fixed as follows:

(i) *Valencia oranges.* (*a*) Prorate District No. 1, no movement; (*b*) Prorate District No. 2, 500 carloads; and (*c*) Prorate District No. 3, no movement.

(ii) *Oranges other than Valencia oranges.* (*a*) Prorate District No. 1, 700 carloads; (*b*) Prorate District No. 2, no movement; and (*c*) Prorate District No. 3, 60 carloads.

(2) The prorate base of each handler who has made application therefor, as provided in the said order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," and "prorate base" shall have the same meaning as

is given to each such term in the said order; and "Prorate District No. 1," "Prorate District No. 2," and "Prorate District No. 3" shall have the same meaning as is given to each such term in § 966.107 of the rules and regulations (11 F. R. 10258) issued pursuant to said order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 6th day of November 1947.

[SEAL] M. W. BAKER,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

[12:01 a. m. Nov. 9, 1947 to 12:01 a. m. Nov. 16, 1947]

ALL ORANGES OTHER THAN VALENCIA ORANGES

Prorate District No. 1

Handler	Prorate base (percent)
Total	100.0000
A. F. G. Lindsay	2.7787
A. F. G. Porterville	2.3681
Ivanhoe Cooperative	.4759
Doffiemeyer, W. Todd & Son	.4834
Elderwood Citrus Association	.8528
Exeter Citrus Association	2.9100
Exeter Orange Growers Association	1.3201
Exeter Orchards Association	1.2447
Hillside Packing Association, The	1.9036
Ivanhoe Mutual Orange Association	1.0022
Klink Citrus Association	3.7673
Lemon Cove Association	1.4231
Lindsay Citrus Growers Association	2.7316
Lindsay Coop. Citrus Association	1.3495
Lindsay District Orange Co	1.5313
Lindsay Fruit Association	2.0310
Lindsay Orange Growers Association	1.0815
Naranjo Packing House Co	.7199
Orange Cove Citrus Association	2.9504
Orange Cove Orange Growers Association	2.3808
Orange Packing Co	1.2144
Orosi Foothill Citrus Association	1.3033
Paloma Citrus Fruit Association	.9708
Pogue Packing House, J. E	.5706
Rocky Hill Citrus Association	1.6869
Sanger Citrus Association	3.1583
Sequoia Citrus Association	.8315
Stark Packing Corp	2.1262
Visalia Citrus Association	.8997
Waddell & Son	2.1521
Butte County Citrus Association, Inc	.5220
Mills Orchard Co., James	.6147
Orland Orange Growers Association, Inc	.6443
Andrews Edison Groves	.6047
Baird-Neece Corp	1.7404
Beattie, Agnes M	.4984
Grand View Heights Citrus Association	2.2393
Magnolia Citrus Association	2.1924
Porterville Citrus Association, The	1.3493
Richgrove-Jasmine Citrus Association	1.3207
Sandilands Fruit Co	1.4291
Strathmore Coop. Association	1.6832
Strathmore District Orange Association	1.8208
Strathmore Fruit Growers Association	1.1050
Strathmore Packing House Co	1.9425
Sunflower Packing Association	2.1624
Sunland Packing House Co	2.2042
Terra Bella Citrus Association	1.5121
Tule River Citrus Association	1.1024
Vandalia Packing Association	.6526
Kroells Bros., Ltd	1.3009

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—continued

Prorate District No. 1—Continued

Handler	Prorate base (percent)
Lindsay Mutual Groves	1.8148
Martin Ranch	1.2928
Woodlake Packing House	1.6850
Abbate Co., The Charles	.2457
Anderson, R. M. Packing Co	.7985
Baker Bros	.1121
Calif. Citrus Growers Inc., Ltd	1.6344
Edison Groves Co	.8504
Evans Brothers Packing Co	1.3903
Exeter Groves Packing Co	1.3310
Ghianda Ranch Association	.0183
Harding & Leggett	1.6125
Lo Bue Brothers	.9875
Marks, W. & M	.4371
R. M. C. Porterville	2.3382
Reimers, Don H	.1983
Rooke Packing Co., B. G	1.5156
Webb Packing Co., Inc	1.0422
Wollenman Packing Co	.8722
Woodlake Heights Packing Corp	.4868
Zaninovich Bros	.4642

VALENCIA ORANGES

Prorate District No. 2

Total	100.0000
A. F. G. Alta Loma	.0000
A. F. G. Fullerton	.0000
A. F. G. Orange	.8844
A. F. G. Redlands	.3182
A. F. G. Riverside	.1853
A. F. G. San Juan Capistrano	.0000
A. F. G. Santa Paula	.5154
Corona Plantation Co	.3248
Hazeltine Packing Co	.5390
Placentia Pioneer Valencia Growers' Association	.9024
Signal Fruit Association	.1073
Azusa Citrus Association	.0000
Azusa Orange Co., Inc	.0000
Damerel-Allison Co	.0000
Glendora Mutual Orange Association	.0000
Irwindale Citrus Association	.0000
Puente Mutual Citrus Association	.2818
Valencia Heights Orchards Association	.6015
Glendora Citrus Association	.0000
Glendora Heights Orange and Lemon Growers' Association	.0000
Gold Buckle Association	.0000
La Verne Orange Association	.8230
Anaheim Citrus Fruit Association	1.9038
Anaheim Valencia Orange Association	1.9663
Eadington Fruit Co., Inc	2.7937
Fullerton Mutual Orange Association	2.2274
La Habra Citrus Association	1.3922
Orange County Valencia Association	.9487
Orangethorpe Citrus Association	1.5342
Placentia Coop. Orange Association	.0000
Yorba Linda Citrus Association, The	.0000
Alta Loma Heights Citrus Association	.0000
Citrus Fruit Growers	.0000
Cucamonga Citrus Association	.0000
Etiwanda Citrus Fruit Association	.0000
Old Baldy Citrus Association	.0000
Rialto Heights Orange Growers	.0000
Upland Citrus Association	.0000
Upland Heights Orange Association	.0000
Consolidated Orange Growers	2.7017
Frances Citrus Association	1.3225
Garden Grove Citrus Association	2.2201
Goldenwest Citrus Association, The	1.9797
Irvine Valencia Growers	3.2788
Olive Heights Citrus Association	2.3607
Santa Ana-Tustin Mutual Citrus Association	1.3327

PRORATE BASE SCHEDULE—Continued

VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
Santiago Orange Growers Association	5.2912
Tustin Hills Citrus Association	2.4119
Villa Park Orchards Association, The	2.5090
Andrews Bros. of California	.6506
Bradford Bros., Inc	.9051
Placentia Mutual Orange Association	.0000
Placentia Orange Growers Association	3.3953
Call Ranch	.0000
Corona Citrus Association	.5537
Jameson Co	.0628
Orange Heights Orange Association	.4703
Break & Son, Allen	.0000
Bryn Mawr Fruit Growers Association	.0000
Crafton Orange Growers Association	.5244
E. Highlands Citrus Association	.0000
Fontana Citrus Association	.1222
Highland Fruit Growers Association	.0000
Krinard Packing Co	.3516
Mission Citrus Association	.1969
Redlands Coop. Fruit Association	.0000
Redlands Heights Groves	.4110
Redlands Orange Growers Association	.3496
Redlands Orangedale Association	.0000
Redlands Select Groves	.2157
Rialto Citrus Association	.0000
Rialto Orange Co	.2008
Southern Citrus Association	.0000
United Citrus Growers	.1935
Zilen Citrus Co	.0000
Andrews Bros. of California	.1813
Arlington Heights Fruit Co	.1678
Brown Estate, L. V. W	.0000
Gavilan Citrus Association	.1975
Hemet Mutual Groves	.0000
Highgrove Fruit Association	.0968
McDermont Fruit Co	.2226
Mentone Heights Association	.0000
Monte Vista Citrus Association	.0000
National Orange Co	.0000
Riverside Heights Orange Growers Association	.0000
Sierra Vista Packing Association	.0000
Victoria Avenue Citrus Association	.2350
Claremont Citrus Association	.1812
College Heights Orange and Lemon Association	.2769
El Camino Citrus Association	.0000
Indian Hill Citrus Association	.0000
Pomona Fruit Growers Exchange	.4747
Walnut Fruit Growers Association	.5767
West Ontario Citrus Association	.0000
El Cajon Valley Citrus Association	.0000
Escondido Orange Association	3.2284
San Dimas Orange Growers Association	.6719
Covina Citrus Association	1.4239
Covina Orange Growers Association	.5469
Duarte-Monrovia Fruit Exchange	.0000
Santa Barbara Orange Association	.0000
Ball & Tweedy Association	.0000
Canoga Citrus Association	.0000
North Whittier Heights Citrus Association	1.1925
San Fernando Fruit Growers Association	.0000
San Fernando Heights Orange Association	1.2722
Sierra Madre-Lamanda Citrus Association	.0000
Camarillo Citrus Association	1.9810
Fillmore Citrus Association	4.4220
Mupu Citrus Association	3.3398
Ojai Orange Association	1.2695
Piru Citrus Association	2.6219
Santa Paula Orange Association	1.2745
Tapo Citrus Association	1.2490

PRORATE BASE SCHEDULE—Continued

VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
Limoneira Company	0.0000
East Whittier Citrus Association	.5343
El Ranchito Citrus Association	1.6571
Murphy Ranch Company	.5720
Rivera Citrus Association	.0000
Whittier Citrus Association	.9987
Whittier Select Citrus Association	.6239
Anaheim Coop, Orange Association	1.8322
Bryn Mawr Mutual Orange Association	.0000
Chula Vista Mutual Lemon Association	.0000
Escondido Coop. Citrus Association	.4412
Euclid Avenue Orange Association	.5607
Foothill Citrus Union, Inc	.0000
Fullerton Coop. Orange Association	.0000
Garden Grove Orange Coop., Inc	.0000
Glendora Coop. Citrus Association	.0000
Golden Orange Groves, Inc	.0000
Highland Mutual Groves	.0000
Index Mutual Groves	.0000
La Verne Coop. Citrus Association	1.8836
Olive Hillside Groves	.0000
Orange Coop. Citrus Association	.0000
Redlands Foothill Groves	.6689
Redlands Mutual Orange Association	.0000
Riverside Citrus Association	.0990
Ventura County Orange & Lemon Association	1.2026
Whittier Mutual Orange & Lemon Association	.0000
Babijuice Corp. of California	.0000
Banks Fruit Co	.0000
Banks, L. M	.0000
Borden Fruit Co	1.2979
California Fruit Distributors	.4345
Cherokee Citrus Co., Inc	.0000
Chess Company, Meyer W	.3600
Escondido Avocado Growers	.0000
Evans Brothers Packing Co	.0000
Furr, N. C	.0198
Gold Banner Association	.0000
Granada Hills Packing Co	.0000
Granada Packing House	.0000
Hill, Fred A	.0000
Inland Fruit Dealers	.0985
Mills, Edward	.0000
Orange Belt Fruit Distributors	2.8951
Panno Fruit Co., Carlo	.0844
Paramount Citrus Association	.0000
Placentia Orchards Co	.6403
San Antonio Orchards Co	.5972
Santa Fe Groves Co	.0672
Snyder & Sons Co., W. A	1.1854
Stephens, T. F	.0987
Sunny Hills Ranch, Inc	.0000
Ventura County Citrus Association	.0000
Verity & Sons Co., R. H	.0478
Wall, E. T	.0000
Webb Packing Co	.0000
Western Fruit Growers, Inc., Reds	.8769
Yorba Orange Growers Association	.8669

ALL ORANGES OTHER THAN VALENCIA ORANGES

Prorate District No. 3

Total	100.0000
Allen-Young Citrus Packing Co	1.9460
Consolidated Citrus Growers	7.1683
McKellips Mutual Citrus Growers, Inc	7.1619
McKellips Phoenix Citrus Co., Inc., C. H	9.5209
Phoenix Citrus Packing Co	3.2597
Arizona Citrus Growers	20.0402
Bumstead, Dale	.5320
Chandler Heights Citrus Growers	2.2198
Desert Citrus Growers Co., Inc	4.5124
Mesa Citrus Growers	15.7702
Yuma Mesa Fruit Growers Association	.2203
Arizona Citrus Products Co	3.2486
Libbey Fruit Packing Co	4.0258

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—continued

Prorate District No. 3—Continued

Handler	Prorate base (percent)
Pioneer Fruit Co	4.4931
Tempe Citrus Co	2.1728
Dhuyvetter Bros	1.1505
Ishikawa, Paul	.2553
Leppla-Pratt Produce Distributors, Inc	8.3483
Macchiaroli Fruit Co., James	.9385
Morris Bros. Fruit Co	.2719
Orange Belt Fruit Distributors	.1872
Potato House, The	1.1578
Valley Citrus Packing Co	1.3985

[F. R. Doc. 47-9994; Filed, Nov. 7, 1947; 8:47 a. m.]

PART 978—MILK IN THE NASHVILLE, TENN., MARKETING AREA

Sec.

978.0 Findings and determinations.
978.1 Definitions.
978.2 Market administrator.
978.3 Reports, records, and facilities.
978.4 Classification of milk.
978.5 Minimum prices.
978.6 Application of provisions.
978.7 Determination of uniform prices.
978.8 Payments to producers.
978.9 Expense of administration.
978.10 Marketing services.
978.11 Effective time, suspension and termination.
978.12 Separability of provisions.
978.13 Agents.

AUTHORITY: §§ 978.0 to 978.13, inclusive, issued under 48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U. S. C., 601 et seq.; Sec. 103, Reorg. Plan 1 of 1947, 12 F. R. 4534.

§ 978.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Supps. 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159, 4904), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Nashville, Tennessee, marketing area. The recommended decision (12 F. R. 6382) was made by the Acting Assistant Administrator of the Production and Marketing Administration on September 26, 1947, and the decision (12 F. R. 7082) was made by the Secretary on October 27, 1947. Upon the basis of evidence introduced at such hearing and the record thereof, it is found that:

(1) The issuance of this order, and all the terms and conditions of this order, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held; and

(4) All milk and milk products, handled by handlers, as defined herein, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

(b) *Additional findings.* (1) It is hereby found and proclaimed in connection with the issuance of this order regulating the handling of milk in the said marketing area, that the purchasing power of such milk during the prewar period of August 1909–July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but the purchasing power of such milk for the period August 1922–July 1929 can be satisfactorily determined from available statistics of the Department of Agriculture, and the period August 1922–July 1929 is the base period to be used in connection with this order in determining the purchasing power of such milk.

(2) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by (i) each handler, as his pro rata share of such expenses, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during the delivery period, of (*a*) milk from producers (including such handler's own production), and (*b*) other source milk received at a handler's fluid milk plant, and (ii) each cooperative association as its pro rata share of such expenses, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to milk of producers caused to be diverted by it pursuant to § 978.1 (k) (2).

(3) It is necessary, in the public interest, to make the several provisions of this order effective as hereinafter set forth so as to reflect current marketing conditions and to give to producers an immediate assurance of "floor" prices on Class I milk and Class II milk, below which such prices cannot fall, as an incentive to a needed increase in milk production during the fall and winter months of 1947–48. Any further delay in the effective dates of the order will seriously threaten the supply of milk in the Nashville, Tennessee, marketing area. The need for the order is also disclosed by the decision (12 F. R. 7082) which was executed on October 27, 1947. The provisions of the order are well known to the handlers—the public hearing having been held on June 23 to 27 and June 30 to July 1, 1947, the recommended decision having been published in the FEDERAL REGISTER (12 F. R. 6382) on September 26, 1947, and the final decision (12 F. R. 7082) having been exe-

cuted by the Secretary on October 27, 1947. Handlers have requested, in view of the fact that this order will constitute the original imposition of a regulatory program of this nature for the market, that the provisions of such order other than those relating to prices and payments to producers be put into effect for a sufficient time prior to the effective date of the provisions relating to prices and payments to producers to enable them to make necessary adjustments in their accounting and other operational procedures to conform with all provisions of the order. Therefore, reasonable times are permitted, under the circumstances, for preparation for the effective dates specified below. It is hereby found and determined, in view of the aforementioned facts and circumstances, that good cause exists for making §§ 978.1, 978.2, 978.3, 978.4, 978.6, 978.9, 978.11, 978.12, 978.13 of this order effective on November 16, 1947, and §§ 978.5, 978.7, 978.8, and 978.10 effective on December 1, 1947; and that it would be contrary to the public interest to delay such effective dates to dates later than those specified.

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order) of more than 50 percent of the volume of milk covered by this order, which is marketed within the Nashville, Tennessee, marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order is the only practical means pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of this order, and who during the determined representative period (July, 1947), were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is hereby ordered, that on and after the effective dates hereof, the handling of milk in the Nashville, Tennessee, marketing area shall be in conformity to and in compliance with the following terms and conditions:

§ 978.1 *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress or by executive order to perform the price reporting functions of the United States Department of Agriculture.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Nashville, Tennessee, marketing area" hereinafter called the "marketing area" means all the territory within Davidson County, Tennessee, including but not being limited to the Cities of Nashville and Belle Meade.

(f) "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and is authorized by its members to make collective sales or to market milk or its products for the producers thereof.

(g) "Producer-handler" means any person who is both a producer and a handler who receives no milk from other producers.

(h) "Delivery period" means a calendar month, or the portion thereof during which this part is in effect.

(i) "Fluid milk plant" means the premises and the portions of the building and facilities used in the receipt and processing or packaging of producer milk, all, or a portion, of which is disposed of from such plant within the delivery period as Class I milk in the marketing area; but not including any portion of such building or facilities used for receiving or processing milk or any milk product required by the appropriate health authority in the marketing area to be kept physically separate from the receiving and processing or packaging of milk for disposition as Class I milk in the marketing area.

(j) "Producer" means any person who produces milk under a dairy farm inspection permit issued by the appropriate health authority in the marketing area, and whose milk conforms to the appropriate health standards for milk for fluid consumption, which milk is: (1) Received at a fluid milk plant, or (2) diverted from a fluid milk plant to any milk distributing or milk manufacturing plant: *Provided*, That any such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted.

(k) "Handler" means (1) any person who operates a fluid milk plant, or (2) any cooperative association of producers with respect to producer milk diverted by it from a fluid milk plant to any milk distributing or milk manufacturing plant for the account of such association.

(l) "Nonfluid milk plant" means any milk manufacturing, processing, or bottling plant other than a fluid milk plant described in paragraph (i) of this section.

(m) "Other source milk" means all skim milk and butterfat in any form received from a source other than a producer or handler, and all skim milk and butterfat transferred in any form by a producer-handler to any handler.

(n) "Producer milk" means milk produced by one or more producers.

§ 978.2 *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to this part:

(1) To administer its terms and provisions;

(2) To receive, investigate, and report to the Secretary complaints of violations;

(3) To make rules and regulations to effectuate its terms and provisions; and

(4) To recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(1) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(3) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(4) Pay, out of the funds provided by § 978.9: (i) The cost of his bond and of the bonds of his employees, (ii) his own compensation, and (iii) all other expenses, except those incurred under § 978.10, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(5) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(6) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 5 days after the day upon which he is required to perform such act, has not made (i) reports pursuant to § 978.3 (a), or (ii) payments pursuant to § 978.8;

(7) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(8) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation hereof as are necessary and essential to the

proper functioning of this marketing order;

(9) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(10) Publicly announce the prices and butterfat differentials determined for each delivery period as follows: (i) On or before the 6th day after the end of such delivery period, the prices and butterfat differentials for each class computed pursuant to § 978.5; and (ii) on or before the 10th day after the end of such delivery period, the uniform price, computed pursuant to § 978.7 (b), and the butterfat differentials to be paid pursuant to § 978.8 (f).

§ 978.3 *Reports, records, and facilities*—(a) *Delivery period reports of receipts and utilization.* On or before the 6th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of skim milk and butterfat contained in (i) all receipts at his fluid milk plant(s) within such delivery period of (*a*) producer milk, (*b*) milk, skim milk, cream, and milk products from other handlers, and (*c*) other source milk; and (ii) milk diverted pursuant to § 978.1 (j) (2); and

(2) The utilization of all skim milk and butterfat required to be reported under subparagraph (1) of this paragraph.

(b) *Other reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator as follows, except that each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request:

(1) On or before the 20th day after the end of each delivery period, if requested by the market administrator, his producer payroll for such delivery period which shall show for each producer (i) the total pounds of milk delivered with the average butterfat test thereof, and (ii) the net amount of such handler's payment to such producer together with the price, deductions, and charges involved.

(2) On or before the first day other source milk is received his intention to receive such milk, and on or before the last day such milk is received his intention to discontinue such receipts.

(c) *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to (1) verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omissions, ascertain the correct figures; (2) weigh, sample, and test for butterfat content all milk and milk products handled; (3) verify payments to producers; and (4) make such examinations of operations, equipment, and facilities, as the market administrator deems necessary.

§ 978.4 *Classification of milk*—(a) *Basis of classification.* All skim milk and butterfat contained in (1) milk, skim milk, cream, and milk products received at a fluid milk plant and (2) producer milk diverted pursuant to § 978.1 (j) (2) shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraphs (c), (d), (e), and (f) of this section, the classes of utilization shall be as follows:

(1) Class I milk shall be all skim milk and butterfat (i) disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, and flavored milk drinks, and (ii) not specifically accounted for as Class II milk or Class III milk.

(2) Class II milk shall be all skim milk and butterfat disposed of in the form of cream, aerated cream, eggnog, and any other cream product, except ice cream mix, disposed of in fluid form.

(3) Class III milk shall be all skim milk and butterfat: (i) used to produce any item other than those specified in subparagraphs (1) and (2) of this paragraph; (ii) in inventory variations; (iii) disposed of for livestock feed; (iv) in actual plant shrinkage of skim milk and butterfat received in producer milk, but not in excess of 3 percent of such receipts of skim milk and butterfat, respectively, hereinafter known as allowable shrinkage; and (v) in actual plant shrinkage of skim milk and butterfat, respectively, in other source milk received: *Provided,* That if producer milk is utilized as milk, skim milk, or cream in conjunction with other source milk the shrinkage of skim milk and butterfat, respectively, allocated to producer milk and other source milk shall be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their total.

(c) *Responsibility of handlers and reclassification of milk.* (1) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified in another class.

(2) Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

(d) *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(1) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a fluid milk plant of another handler (except a producer-handler), unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 6th day after the end of the delivery period within which such transaction occurred: *Provided,* That skim milk or butterfat so assigned to a particular class shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to paragraph (f) of this section, and any excess of such skim milk or butterfat, respectively, shall be assigned in series beginning with the next highest priced available utilization.

(2) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a producer-handler.

(3) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a nonfluid milk plant located less than 85 miles from the City Hall at Nashville, Tennessee, by the shortest highway distance as determined by the market administrator, unless (i) the handler claims another class on the basis of a utilization mutually indicated in writing to the market administrator by both the operator of the nonfluid milk plant and the handler on or before the 6th day after the end of the delivery period within which such transaction occurred, (ii) the operator of the nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (iii) not less than an equivalent amount of skim milk and butterfat was actually utilized in such plant in the use indicated in such statement: *Provided,* That if upon inspection of the records of such plant it is found that an equivalent amount of skim milk and butterfat was not actually used in such indicated use the remaining pounds shall be classified on the basis of the next highest priced available use in accordance with the classes set forth in paragraph (b) of this section.

(4) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a nonfluid milk plant located 85 miles or more from the City Hall in Nashville, Tennessee, by the shortest highway distance as determined by the market administrator.

(e) *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

(f) *Allocation of skim milk and butterfat classified.* (1) The pounds of skim milk remaining in each class after making the following computations for each

handler for each delivery period shall be the pounds in such class allocated to producer milk received by such handler:

(i) Subtract allowable shrinkage of skim milk from the total pounds of skim milk in Class III milk;

(ii) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest-priced available use, the pounds of skim milk in other source milk;

(iii) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from other handlers and assigned to such class pursuant to paragraph (d) (1) of this section;

(iv) Add to the pounds of skim milk remaining in Class III milk the pounds of skim milk subtracted pursuant to subdivision (i) of this subparagraph; or if the pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class, in series beginning with the lowest-priced utilization.

(2) Allocate the pounds of butterfat in each class to producer milk in the same manner prescribed for skim milk in subparagraph (1) of this paragraph.

(3) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, respectively, as computed pursuant to subparagraphs (1) and (2) of this paragraph, and determine the percentage of butterfat in each class.

§ 978.5 *Minimum prices*—(a) *Basic formula price.* The basic formula price per hundredweight (computed to the nearest tenth of a cent) to be used in determining the price for Class I milk and Class II milk pursuant to paragraph (b) of this section shall be the highest of the prices per hundredweight for milk of 4.0 percent butterfat content computed pursuant to subparagraph (1), (2), or (3) of this paragraph, or paragraph (b) (3) of this section.

(1) To the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the delivery period by the companies listed below:

Companies and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

add an amount computed by multiplying the butterfat differential computed pursuant to § 978.8 (f) by 5.

(2) The price per hundredweight computed as follows:

(i) Multiply by 6 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period;

(ii) Add an amount equal to 2.4 times the arithmetical average of the weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided*, That if the price of "Twins" is not quoted on such Exchange, the weekly prevailing price per pound of "Cheddars" shall be used; and

(iii) Divide by 7, add 30 percent thereof, and then multiply by 4.

(3) The price per hundredweight computed as follows:

Multiply by 4.0 the arithmetical average of daily wholesale prices per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, add 20 percent thereof, and add to such sum $3\frac{3}{4}$ cents for each full ½ cent that the arithmetical average of carlot prices per pound of nonfat dry milk solids (not including that specifically designated animal feed) spray and roller process, f. o. b. Chicago area manufacturing plants, as reported by the Department of Agriculture during the delivery period, is above 5 cents: *Provided*, That if such f. o. b. manufacturing plant prices of nonfat dry milk solids are not reported there shall be used for the purpose of such computation the arithmetical average of the carlot prices of nonfat dry milk solids delivered at Chicago, Illinois, as reported weekly by the Department of Agriculture during the delivery period; and in the latter event the "5 cents" shall be increased by 1 cent.

(b) *Class prices.* Subject to the provisions of paragraph (c) of this section, each handler shall pay producers, at the time and in the manner set forth in § 978.8, not less than the prices per hundredweight computed as follows for the respective quantities of Class I milk, Class II milk, and Class III milk computed pursuant to § 978.4 (f).

(1) *Class I milk.* The price for Class I milk shall be the basic formula price plus $1.25: *Provided*, That for the delivery periods from the effective date hereof to and including December 1947, the price for Class I milk shall not be less than $5.35, and that for the delivery periods of January and February 1948, the price for Class I milk shall not be less than the December 1947 price less 40 cents.

(2) *Class II milk.* The price for Class II milk shall be the basic formula price plus 75 cents: *Provided*, That for the delivery periods from the effective date hereof to and including December 1947, the price for Class II milk shall not be less than $4.85, and that for the delivery periods of January and February 1948, the price for Class II milk shall not be less than the December 1947 price less 40 cents.

(3) *Class III milk.* The price per hundredweight for Class III milk shall be the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the delivery period by the companies indicated below:

Company and Location

Cudahy Packing Co., Lafayette, Tenn.
Carnation Co., Murfreesboro, Tenn.
Kraft Foods Co., Gallatin, Tenn.
Borden Co., Fayetteville, Tenn.
Swift and Co., Lebanon, Tenn.
Borden Co., Lewisburg, Tenn.
Giles County Dairy Products, Pulaski, Tenn.
Lakeshire-Marty Cheese Co., Carthage, Tenn.
Swift and Co., Lawrenceburg, Tenn.
Wilson and Co., Murfreesboro, Tenn.

(c) *Butterfat differential to handlers.* If the weighted average butterfat test of that portion of producer milk which is classified, respectively, in any class of utilization for a handler, pursuant to § 978.4 (f), is more or less than 4.0 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of 1 percent that such weighted average butterfat test is above or below, respectively, 4.0 percent, a butterfat differential (computed to the nearest 10th of a cent), calculated for each class of utilization as follows:

(1) *Class I milk.* Multiply by 1.4 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

(2) *Class II milk.* Multiply by 1.35 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

(3) *Class III milk.* Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

§ 978.6 *Application of provisions*—(a) *Producer-handlers.* Sections 978.4, 978.5, 978.7, 978.8, 978.9, and 978.10 shall not apply to producer-handlers.

(b) Milk received at a fluid milk plant which milk is subject to the pricing and payment provisions of any other Federal milk marketing agreement or order issued pursuant to the act for any fluid milk marketing area shall be considered as other source milk.

§ 978.7 *Determination of uniform price*—(a) *Computation of value of milk.* The value of producer milk received during each delivery period by each handler shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class for the delivery period by the applicable class price and adding together the resulting amounts: *Pro-*

vided, That if a handler, after subtracting receipts of other source milk and receipts from other handlers, has disposed of skim milk or butterfat in excess of the skim milk or butterfat which, on the basis of his report for the delivery period pursuant to § 978.3 (a), has been credited to producers as having been received from them, there shall be added an amount computed by multiplying the pounds in each class as subtracted pursuant to subparagraphs (1) (iv) and (2) of § 978.4 (f) by the applicable class price adjusted by the butterfat differentials to handlers specified in § 978.5 (c).

(b) *Computation of the uniform price.* For each delivery period, the market administrator shall compute the uniform price per hundredweight for milk, on the basis of 4.0 percent butterfat content, received from producers as follows:

(1) Combine into one total the values computed pursuant to paragraph (a) of this section for all handlers who made the reports prescribed by § 978.3 (a) for such delivery period, except those in default of payments required pursuant to § 978.8 (c) for the preceding delivery period;

(2) Subtract, if the average butterfat content of producer milk represented by the values included under subparagraph (1) of this paragraph is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 978.8 (f), and multiply the result by the total hundredweight of such milk;

(3) Add an amount representing the cash balance on hand in the producer-settlement fund, less the total amount of contingent obligations to handlers pursuant to § 978.8 (d);

(4) Divide the resulting amount by the total hundredweight of producer milk included in these computations; and

(5) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers. This result shall be known as the "uniform price" per hundredweight for such delivery period for producer milk containing 4.0 percent butterfat, f. o. b. fluid milk plant.

(c) *Notification of handlers.* On or before the 10th day after the end of each delivery period, the market administrator shall mail to each handler, at his last known address, a statement showing:

(1) The amount and value of his producer milk in each class and the total thereof;

(2) The uniform price computed pursuant to paragraph (b) of this section and the butterfat differentials computed pursuant to § 978.8 (f); and

(3) The amounts to be paid by such handler pursuant to §§ 978.8 (c), 978.9, and 978.10.

§ 978.8 *Payments to producers*—(a) *Time and method of payment.* (1) On or before the last day of each delivery period, each handler shall make payment to each producer, at not less than 75 percent of the uniform price per hundredweight for the preceding delivery period, for milk received from such producer during the first 15 days of such delivery period: *Provided,* That for the first delivery period under this order such payment shall be not less than 75 percent of the price per hundredweight for 4.0 percent milk paid to producers by such handler for milk delivered during the last half of the immediately preceding delivery period.

(2) On or before the 15th day after the end of each delivery period, each handler shall make payment to each producer, for milk received from such producer during such delivery period, at not less than the uniform price per hundredweight computed pursuant to § 978.7 (b), subject to the following adjustments: (i) the butterfat differential pursuant to paragraph (f) of this section, (ii) less payment made pursuant to subparagraph (1) of this paragraph, (iii) less marketing service deductions pursuant to § 978.10, (iv) less deductions authorized by the producer, and (v) any error in calculating payment to such individual producer for past delivery periods: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to paragraph (d) of this section, he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (c) and (e) of this section, and out of which he shall make all payments pursuant to paragraphs (d) and (e) of this section: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

(c) *Payments to the producer-settlement fund.* On or before the 13th day after the end of each delivery period, each handler shall pay to the market administrator any amount by which the total value of his milk computed pursuant to § 978.7 (a) for such delivery period is greater than an amount computed by multiplying the hundredweight of milk received from producers during the delivery period by the uniform price adjusted for the butterfat differential provided for in paragraph (f) of this section.

(d) *Payments out of the producer-settlement fund.* On or before the 14th day after the end of each delivery period, the market administrator shall pay to each handler, for payment to producers, any amount by which the total value of his milk computed pursuant to § 978.7 (a) for such delivery period is less than an amount computed by multiplying the hundredweight of milk received from producers during the delivery period by the uniform price adjusted for the butterfat differential provided for in paragraph (f) of this section. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(e) *Adjustment of errors in payment.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (c) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to paragraph (d) of this section, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by this section, the handler shall pay such balance due such producer not later than the time of making payment to producers next following such disclosure.

(f) *Butterfat differential to producers.* If, during the delivery period, any handler has received from any producer, milk having an average butterfat content other than 4.0 percent, such handler, in making payments prescribed in paragraph (a) (2) of this section, shall add to the uniform price per hundredweight paid to such producer for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent not less than, or shall deduct from the uniform price per hundredweight for each one-tenth of 1 percent that the average butterfat content of such milk is below 4.0 percent not more than, an amount computed as follows: Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10, and then adjust to the nearest one-tenth of a cent.

(g) *Statement to producers.* In making payments required by paragraph (a) (2) of this section each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of paragraphs (a) and (f) of this section;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under § 978.10, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

§ 978.9 *Expense of administration.* As his pro rata share of the expense of the administration hereof, each handler shall pay to the market administrator, on or before the 15th day after the end of each delivery period, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during the delivery period, of (a) milk from producers (including such handler's own production), and (b) other source milk received at a fluid milk plant. Each cooperative association which is a handler shall pay such pro rata expense on only that milk of producers caused to be diverted by it pursuant to § 978.1 (k) (2).

§ 978.10 *Marketing services*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers pursuant to § 978.8 (a) (2), shall deduct an amount not exceeding 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers during the delivery period and shall pay such deductions to the market administrator not later than the 15th day after the end of the delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from producers during the delivery period and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions, as are authorized by such producers and, on or before the 15th day after the end of each delivery period, pay over such deductions to the association rendering such services.

§ 978.11 *Effective time, suspension, and termination*—(a) *Effective time.* The provisions hereof, or any amendments hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions hereof, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* (1) If, upon the suspension or termination of any or all of the provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(2) The market administrator, or such other person as the Secretary may designate (i) shall continue in such capacity until discharged by the Secretary; (ii) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (iii) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 978.12 *Separability of provisions.* If any provisions hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

§ 978.13 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

Issued at Washington, D. C., this 5th day of November 1947.

Sections 978.1, 978.2, 978.3, 978.4, 978.6, 978.9, 978.11, 978.12, and 978.13 to be effective on and after the 16th day of November 1947, and §§ 978.5, 978.7, 978.8, and 978.10 to be effective on and after the 1st day of December 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-9979; Filed, Nov. 7, 1947; 8:53 a. m.]

TITLE 13—BUSINESS CREDIT

Chapter I—Reconstruction Finance Corporation

PRESERVATION OF RECORDS

CROSS REFERENCE: For joint order amending former Office of Price Administration Supplementary Order 189—Preservation of Records, see Part 1305 of Title 32, *infra.*

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Regs., Serial No. 390-A]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE CONTINENTAL LIMITS OF U. S.

PART 42—NONSCHEDULED AIR CARRIER CERTIFICATION AND OPERATION RULES

PART 61—SCHEDULED AIR CARRIER RULES

EXTENSION OF TERMINATION DATE

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 31st day of October 1947.

Special Civil Air Regulation No. 390 provides for certain latitude in complying with the requirements of Amendments 41-3, 42-2, and 61-2, of the Civil Air Regulations. This Special Civil Air Regulation terminates November 1, 1947.

Substantial evidence has been presented to the Board that two certificated air carriers have not been able to secure all of the items needed to complete the modifications required by said amendments, despite diligent procurement effort, and that termination of this regulation on November 1, 1947, will result in withdrawing aircraft from service which are essential to maintenance of schedules. For this reason the Board considers it in the public interest to extend the termination date of Special Civil Air Regulation Serial Number 390 to December 1, 1947.

Because of the above, notice and public procedures hereon are impracticable. Since this regulation imposes no additional burden on any person, it may be made effective without prior notice.

The Civil Aeronautics Board hereby amends Special Civil Air Regulation Serial Number 390 by extending the termination date thereof from November 1, 1947, to December 1, 1947.

(Sec. 205 (a); 52 Stat. 984; 49 U. S. C. 425 (a))

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 47-9976; Filed, Nov. 7, 1947; 8:52 a. m.]

[Regs., Serial No. 404]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE CONTINENTAL LIMITS OF THE U. S.

PART 42—NONSCHEDULED AIR CARRIER CERTIFICATION AND OPERATION RULES

PART 43—GENERAL OPERATION RULES

PART 61—SCHEDULED AIR CARRIER RULES

REMOVAL OF LANDING FLARE EQUIPMENT FROM DOUGLAS DC-6 AIRCRAFT

Adopted by the Civil Aeronautics Board at its office in Washington, D. C. on the 31st day of October 1947.

Sections 41.25 (j), 42.13 (b) (4), 43.30 (b) (4), and 61.7114 (b) (4) of the Civil Air Regulations presently provide that landing flares must be installed in aircraft used in night operations.

Preliminary investigation of a recent air carrier accident involving fire aboard the aircraft has indicated that the landing flare equipment located in the wing root section adjacent to the known fire area may have contributed substantially to the intensity of such fire. Pending completion of the investigation of this serious accident, it appears that the carriage of landing flares as required equipment on board Douglas DC-6 aircraft should be suspended until a thorough study and a full determination can be made.

For the above reasons it is impracticable to provide for public notice and procedures, and the Board finds that good cause exists for making this regulation effective without prior notice.

The Civil Aeronautics Board hereby makes and promulgates the following Special Civil Air Regulation to become effective November 1, 1947:

Notwithstanding the provisions of the Civil Air Regulations requiring the carriage of landing flares on aircraft operated at night, Douglas DC-6 type aircraft shall not be operated with landing flare equipment installed in such aircraft.

This regulation shall terminate February 1, 1948.

(Secs. 205 (a), 601, 604, 52 Stat. 984, 1007, 1010; 49 U. S. C. 425 (a), 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-9977; Filed, Nov. 7, 1947; 8:53 a. m.]

[Regs., Serial No. 403]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE CONTINENTAL LIMITS OF THE U. S.

TEMPORARY EXEMPTION FROM CERTIFICATION REQUIREMENTS FOR CERTAIN AIR CARRIER NAVIGATORS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 31st day of October 1947.

Section 41.330 of the Civil Air Regulations now requires that air carrier flight navigators used in scheduled operations be certificated by November 15, 1947. Certain air carriers have found it impossible to complete certification of all flight navigators necessary for their operations by that date. The need for an extension of time for such certification is principally due to the fact that the required examinations were not available to the carriers until August 1, 1947. The intervening period between that date and November 15 is the peak of their operational season. Therefore, extensive rearrangement of schedules would be required to permit all active flight navigators time from duty to complete the required examinations. Such revision of schedules would place an undue burden on the air carriers in this instance.

This regulation is therefore designed to permit those airmen who have successfully completed a flight navigator course established by an air carrier and who are currently authorized by an air carrier to engage in the performance of such duties to continue to act in such capacity until March 15, 1948, in order to allow a sufficient period of time for such personnel to take the examinations required for certification.

Since this regulation imposes no additional burden on any person, compliance with the notice and procedures required by section 4 of the Administrative Procedure Act is unnecessary, and the regulation may be made effective upon less than 30 days notice.

The Civil Aeronautics Board hereby makes and promulgates a Special Civil Air Regulation, effective November 15, 1947, to read as follows:

An airman who has successfully completed a flight navigator training course established by a scheduled air carrier and who is, as of November 15, 1947, authorized by an air carrier to serve as a flight navigator in scheduled air carrier operations may continue to serve in such capacity until March 15, 1948, notwithstanding the provisions of § 41.330 of the Civil Air Regulations.

(Secs. 205 (a), 601, 602, 52 Stat. 964, 1007, 1008; 49 U. S. C. 425 (a), 551, 562)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-9978; Filed, Nov. 7, 1947; 8:53 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury

PART 1—OFFICE OF THE SECRETARY, AND BUREAUS, DIVISIONS, AND OFFICES PERFORMING CHIEFLY STAFF AND SERVICE FUNCTIONS

MISCELLANEOUS AMENDMENTS

1. The last sentence of § 1.2 is amended to read as follows:

§ 1.2 *Under Secretary.* * * * There have been assigned to his supervision the activities of the Bureau of Internal Revenue, the Bureau of Customs, the Office of the Technical Staff, the Division of Tax Research, and the United States Savings Bonds Division.

2. The last sentence of § 1.6, relating to the Director of Tax Research, is amended by deleting therefrom the words "and directed to report directly to the Secretary in connection with the affairs of that Division".

3. The first sentence of § 1.8 (b) is amended to read as follows:

§ 1.8 *Administrative Assistant to the Secretary.* * * *

(b) The Director of Administrative Services and the Director of Personnel report to the Administrative Assistant. * * *

4. Section 1.14 is amended to read as follows:

§ 1.14 *Office of the Technical Staff.* (a) The Office of the Technical Staff was established by Treasury Department Order No. 92, September 23, 1947, superseding the Division of Research and Statistics. It functions under the immediate supervision of the Director of the Technical Staff, appointed by the Secretary. The Office and its Director are under the supervision of the Under Secretary.

(b) The Director of the Technical staff has the responsibility of providing technical assistance for the Secretary, the Under Secretary, the Fiscal Assistant Secretary, and other Treasury officials on matters relating to Treasury financing, public debt management, and other Treasury matters, including the following:

(1) Developments in the outlook for the fiscal and budgetary position of the Treasury, and proposals concerning the size and character of Treasury borrowing operations, both cash and refundings.

(2) The impact of Treasury financing and public debt operations on the credit structure and general economy of the country, and the development of fiscal policy and debt management objectives suitable for current economic conditions.

(3) The investment position and needs of the various investor classes, their current holdings of Federal securities, and the types of securities suited to the needs of different types of investors.

(4) The terms of proposed securities to be offered in Treasury financings, and their probable effects upon the market price and ownership distribution of outstanding Government securities.

(5) The relationship of new securities to the Federal debt structure and interest costs thereon.

(6) The interest rate structure of the country, and current trends in the money markets and in the banking position.

(7) Financing operations of Government corporations and credit agencies.

(8) Trends in Treasury receipts from different sources, and estimates for specific periods of time.

(9) Probable effects of proposed legislation upon Treasury receipts.

(10) Actuarial matters involved in Treasury financing and other Treasury operations, including actuarial estimates for Federal trust funds required by statute.

(11) Other matters, including general considerations of the effects of Treasury

operations on business conditions, credit conditions, employment, and the financial structure of the country, which may be involved in requests to the Director of the Technical Staff from Treasury officials.

5. Section 1.18 is amended to read as follows:

§ 1.18 *Office of Administrative Services.* (a) The Office of Administrative Services was established by Treasury Department Order No. 93, September 26, 1947, which abolished the Office of the Chief Clerk, the Office of the Superintendent of Treasury Buildings, and the Space Control Staff in the Office of the Secretary and transferred their functions, duties, and personnel to the Office of Administrative Services. The Office is headed by a Director who reports to the Administrative Assistant to the Secretary.

(b) The Office of Administrative Services is composed of the following three Divisions:

(1) The Division of Treasury Space Control, which manages and coordinates the assignment and utilization of space occupied by Treasury organizations in Washington and the field.

(2) The Division of Treasury Buildings, which maintains and operates certain Treasury buildings in the District of Columbia.

(3) The Division of Office Services, which operates central management services for the Department.

6. Section 1.19, relating to the Superintendent of Treasury Buildings, is revoked.

7. Paragraphs (a) (1) and (a) (4) of § 1.25 (12 F. R. 772) are amended to read as follows:

§ 1.25 *Delegations of authority.* (a) * * *

(1) To the Under Secretary, the supervision of the activities of the Office of the Technical Staff, the Division of Tax Research, the Bureau of Internal Revenue, the Bureau of Customs, and the United States Savings Bonds Division.

* * * * *

(4) To an Assistant to the Secretary, who reports to the Under Secretary, the supervision of the United States Savings Bonds Division.

8. There is hereby deleted from § 1.25 (b) the second sentence, relating to the Director of the Division of Tax Research.

9. The last sentence of § 1.25 (b) is amended to read as follows:

§ 1.25 *Delegations of authority.* * * *

(b) * * * The Administrative Assistant to the Secretary has supervision over the Office of Administrative Services and the Division of Personnel and is responsible for the budgetary program of the Department.

10. The third sentence of paragraph (a) of § 1.26 is amended by deleting therefrom the words "the Office of Superintendent of Treasury Buildings,", by substituting for the words "Division of Research and Statistics" the words "Office of the Technical Staff", and by substituting for the words "Office of the Chief Clerk" the words "Office of Administrative Services".

11. Paragraph (c) of § 1.26 is amended by deleting therefrom the words "the Office of Superintendent of Treasury Buildings," by substituting for the words "Division of Research and Statistics" the words "Office of the Technical Staff", and by substituting for the words "Office of the Chief Clerk" the words "Office of Administrative Services".

(R. S. 161; 5 U. S. C. 22)

[SEAL] A. L. M. WIGGINS,
Acting Secretary of the Treasury.

[F. R. Doc. 47-9956; Filed, Nov. 7, 1947; 8:49 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—Secretary of Defense

[Transfer Order 3]

TRANSFER OF MILITARY PERSONNEL BETWEEN DEPARTMENT OF ARMY AND DEPARTMENT OF AIR FORCE

Pursuant to the authority vested in me by the National Security Act of 1947 (Act of July 26, 1947; Public Law 253, 80th Cong.) and in order to effect certain transfers authorized or directed therein, it is hereby ordered as follows:

1. There shall be transferred from the Department of the Army to the Department of the Air Force and vice versa, such commissioned officers, warrant officers and enlisted personnel (excepting personnel of the Women's Army Corps), commissioned, holding warrants or enlisted in any component of the Army of the United States and the Air Force of the United States as the Secretary of the Army and the Secretary of the Air Force shall jointly determine.

2. The transfers herein directed shall take effect at such time or times as the Secretary of the Army and the Secretary of the Air Force shall jointly determine.

3. The Secretary of the Army, the Secretary of the Air Force, or their representatives are hereby authorized to issue appropriate orders announcing the transfers herein directed.

4. This order shall take effect at 12:00 noon October 31, 1947.

JAMES FORRESTAL,
Secretary of Defense.

OCTOBER 31, 1947.

[F. R. Doc. 47-9950; Filed, Nov. 7, 1947; 8:55 a. m.]

Chapter VII—Sugar Rationing Administration, Department of Agriculture

PART 705—ADMINISTRATION

PRESERVATION OF RECORDS

CROSS REFERENCE: For joint order amending former Office of Price Administration Supplementary Order 189—Preservation of Records, see Part 1305 of Chapter XI of this title, *infra.*

Chapter XI—Division of Liquidation, Department of Commerce [1]

PART 1305—ADMINISTRATION

PRESERVATION OF RECORDS

Pursuant to the Emergency Price Control Act of 1942, as amended, Executive Orders 9809, 9841 and 9842, and Department of Commerce Order 75, as amended, *It is hereby ordered*, That section 1 of Supplementary Order 189 issued by the Administrator of Price Control on October 23, 1946 (11 F. R. 12568), as amended on November 12, 1946 (11 F. R. 13442), be hereby amended to read as follows:

SECTION 1. *Preservation of records.* All persons shall, with respect to any commodity or service which is exempted or suspended from price control on or after the effective date of this Supplementary Order No. 189, preserve until three years from the effective date of any order or other document issued by the Administrator exempting or suspending such commodity or service from price control, all records, documents, reports, books, accounts, invoices, sales lists, sales slips, orders, vouchers, contracts, receipts, bills of lading, correspondence, memoranda, and other papers, and drafts and copies thereof required to be made or kept by any of the foregoing acts or Executive orders, or by any regulation, order, price schedule or other document issued by the Administrator thereunder. With respect to rice which was decontrolled on June 30, 1947 with the expiration of the Emergency Price Control Act of 1942, as amended, the records and documents mentioned above shall be preserved until June 30, 1949.

(56 Stat. 23, as amended; 50 U. S. C. App., Sup., 901 et seq.; E. O. 9809, Dec. 12, 1946, 3 CFR, 1946 Supp.; E. O. 9841, April 23, 1947, 12 F. R. 2645; E. O. 9842, April 23, 1947; 12 F. R. 2646)

This amendment shall become effective November 8, 1947.

NOTE: The record-keeping and reporting requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 6th day of November, 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.
JOHN D. GOODLOE,
Chairman,
Reconstruction Finance Corporation.
A. T. HOBSON,
Secretary,
Reconstruction Finance Corporation.
EARL W. CLARK,
Director, Division of Liquidation,
Department of Commerce.

Approved:

TOM C. CLARK,
Attorney General,
Department of Justice.

[F. R. Doc. 47-10026; Filed, Nov. 7, 1947; 9:48 a. m.]

[1] Formerly Office of Price Administration.

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 1—ORGANIZATION, PRACTICE AND PROCEDURE

PART 12—AMATEUR RADIO SERVICE

MISCELLANEOUS AMENDMENTS

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 30th day of October 1947;

It appearing, that, the locations of various field offices of the Commission have been changed, and that some offices have been added, and another deleted; and

It further appearing, that as a result of said changes, deletions and additions it is necessary to amend §§ 1.36 (b), 1.40 and the Appendix to Part 12 of the Commission's rules and regulations; and

It further appearing, that such amendments are organizational and that the public notice and procedure set forth in section 4 of the Administrative Procedure Act is not required;

It is ordered, That § 1.36 (b) of the Commission's rules and regulations is amended, effective immediately, so that the address contained in said section is changed from "316 F Street N. E." to "Room 2065, Temporary L Building;"

It is further ordered, That § 1.40 of the Commission's rules and regulations is amended, effective immediately, in the following respects:

1. Change the locations of the radio district offices set forth below to read as follows:

Radio district:	*Address of the engineer in charge*
1	1600 Customhouse, Boston 9, Mass.
3	1005 U. S. Customhouse, Philadelphia 6, Pa.
9	324 U. S. Appraisers Building, 7300 Wingate St., Houston 11, Tex. Suboffice: P. O. Box 1527 (329 Post Office Building), Beaumont, Tex. Ship Office: 406 Post Office Building, Galveston, Tex.
11	Suboffice: 230 U. S. Customhouse, San Diego 1, Calif.
12	323–A Customhouse, San Francisco 26, Calif.
13	406 Central Building, Portland 5, Oreg.
15	521 Customhouse, Denver 2, Colo.
23	Suboffice: P. O. Box 644, Room 39, Federal Building, Anchorage, Alaska.

2. Change the locations of the offices of the Regional Managers of the Field Engineering and Monitoring Division, Engineering Department, set forth below, as follows:

North Atlantic region: 506 Federal Building, 641 Washington Street, New York 14, N. Y.

Gulf States region: 332 U. S. Appraisers Building, 7300 Wingate Street, Houston 11, Tex.

North Pacific region: 801 Federal Office Building, Seattle 4, Wash.

Alaskan region: P. O. Box 644, Room 39, Federal Building, Anchorage, Alaska.

South Pacific region: 323–A Customhouse, San Francisco 26, Calif.

Central States region: 876 U. S. Courthouse, Chicago 4, Ill.

3. Change the address of the Primary Station of the Engineering Department in Honolulu, T. H., as follows:

Federal Communications Commission, 609 Stangenwald Building, Honolulu 1, T. H.

4. Change the addresses of the Secondary Monitoring Stations of the Engineering Department set forth below, as follows:

From	*To*
27 South Sixth Avenue, P. O. Box 347, South Miami, Fla.	P. O. Box 347, South Miami, Fla.
Thirteenth and K Streets, P. O. Box 644, Anchorage, Alaska.	P. O. Box 719, Anchorage, Alaska.
P. O. Box 73, Hato Rey, P. R.	P. O. Box 2987, San Juan, P. R.

5. Add the following Ship Offices to the Radio Districts set forth below:

Radio district:	*Ship Office*
5	Room 106, U. S. Post Office Building, Newport News, Va.
8	324 U. S. Courthouse and Customhouse Building, Mobile 10, Ala.
11	Room 326 U. S. Post Office and Courthouse Building, San Pedro, Calif.

6. Delete the following Secondary Monitoring Station of the Engineering Department:

Federal Communications Commission, St. Paul, Minn.

It is further ordered, That the Appendix to Part 12 of the Commission's rules is amended, effective immediately, in the following respects:

1. Under the heading "Quarterly Examinations" add "Knoxville, Tenn." after "Indianapolis, Ind."

2. Under the heading "Semiannual Examinations" delete "Salisbury, Md."

3. Under the heading "Examining Points" add "Anchorage, Alaska." after "Juneau, Alaska."

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47–9959; Filed, Nov. 7, 1947; 8:49 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[Docket No. 3666]

PARTS 71–85—TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 24th day of October A. D. 1947.

It appearing, that pursuant to section 233 of the Transportation of Explosives Act approved March 4, 1921 (41 Stat. 1445), and Part II of the Interstate Commerce Act, the Commission has formulated and published certain regulations for transportation of explosives and other dangerous articles.

It further appearing, that in applications received we are asked to amend the aforesaid regulations as set forth in provisions made part thereof;

It is ordered, That the aforesaid regulations for transportation of explosives and other dangerous articles be, and are hereby, amended as follows:

Part 2—List of Explosives and Other Dangerous Articles

Amending commodity list, section 4, order Aug. 16, 1940, as follows:

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in one outside container by rail express
(Add) Radioactive materials.	Poison D	367, 368	Poison radioactive materials (blue or red).	2,000 millicuries (see sec. 366 (c)).

Part 3—Regulations Applying to Shippers

Amending order August 16, 1940, as follows (add):

16A. *United States Atomic Energy Commission shipments.*

Shipments of radioactive materials, made by the Atomic Energy Commission, or under its direction or supervision, which are escorted by personnel specially designated by the Atomic Energy Commission, are exempt from these regulations.

Superseding and amending paragraph (a), section 29 (*Empty containers*), order March 29, 1944, to read as follows (add):

(a) (1) All containers and accessories which have been used for shipments of radioactive materials when shipped as empty must be sufficiently free of radioactive contamination so as to conform to the conditions of paragraph (a), subparagraphs 1, 2, and 3 of section 367.

Amending order August 16, 1940, as follows (add):

366 *Radioactive materials; Class D poison; radioactive materials label.*

(a) Radioactive material is any material or combination of materials that spontaneously emits ionizing radiation. For the purpose of these regulations radioactive materials are divided into three groups according to the type of rays emitted at any time during transportation, as follows:

(1) *Group I.* Radioactive materials that emit gamma rays only or both gamma and electrically charged corpuscular rays.

(2) *Group II.* Radioactive materials that emit neutrons and either or both the types of radiation characteristic of Group I materials.

(3) *Group III.* Radioactive materials that emit electrically charged corpuscular rays only, i. e., alpha or beta, etc.

(b) Radioactive materials must not be offered for transportation via rail freight except as specifically provided in section 367, or except by special arrangements and under conditions approved by the Bureau of Explosives.

(c) Not more than 2,000 millicuries of radium, polonium, or other members of the radium family of elements, and not more than that amount of any other radioactive substance which disintegrates at the rate of 100,000 million (10^{11}) atoms per second may be packed in one outside container for shipment via rail express, except by special arrangements and under conditions approved by the Bureau of Explosives.

NOTE: For purposes of these regulations one millicurie is that amount of any radioactive material which disintegrates at the rate of 37 million atoms per second.

367. (a) Radioactive materials, are exempt from prescribed packing, marking and labeling requirements provided they fulfill all of the following conditions:

(1) The package must be such that there can be no leakage of radioactive material under conditions normally incident to transportation.

(2) The package must contain not more than 0.1 millicuries of radium, or polonium, or that amount of strontium 89, strontium 90, or barium 140 which disintegrates at a rate of more than 5 million atoms per second; or that amount of any other radioactive substance which disintegrates at a rate of more than 50 million atoms per second.

(3) The package must be such that no significant alpha, beta or neutron radiation is emitted from the exterior of the package and the gamma radiation at any surface of the package must be less than 10 milliroentgens for 24 hours.

(b) Manufactured articles other than liquids such as instrument or clock dials of which radioactive materials are a component part, and luminous compounds, when securely packed in strong outside containers are exempt from specification packing, marking, and labeling requirements provided the gamma radiation at any surface of the package is less than 10 milliroentgens in 24 hours.

(c) Radioactive materials such as ores, residues, etc., of low activity packed in strong tight containers are exempt from specification packing and labeling requirements for shipment in carload lots via rail freight provided the gamma radiation or equivalent will not exceed 10 milliroentgens per hour at a distance of 5 feet from any surface of the car. There must be no loose radioactive material in the car, and the shipment must be braced so as to prevent leakage or shift of lading under conditions normally incident to transportation. The car must be placarded by the shipper as prescribed in section 541A and 552 of these regulations. Shipments must be loaded by consignor and unloaded by consignee.

PACKING AND SHIELDING

368. (a) Radioactive materials that present special hazards due to their tendency to remain fixed in the human body for long periods of time (i. e., radium, plutonium, and radioactive strontium, etc.) must, in addition to the packing hereinafter prescribed, be packed in inside metal containers specification 2R, or other container approved by the Bureau of Explosives.

(b) All radioactive materials must be so packed and shielded that the degree of fogging of undeveloped film under conditions normally incident to transportation (24 hours at 15 feet from the package) will not exceed that produced by 11.5 milliroentgens of penetrating gamma rays of radium filtered by ½ inch of lead.

(c) The design and preparation of the package must be such that there will be no significant radioactive surface contamination of any part of the container.

(d) The smallest dimension of any outside shipping container for radioactive materials must be not less than 4 inches.

(e) All outside shipping containers must be of such design that the gamma radiation will not exceed 200 milliroentgens per hour or equivalent at any point of readily accessible surface. Containers must be equipped with handles and protective devices when necessary in order to satisfy this requirement.

(f) The outside shipping container for any radioactive material unless specifically exempt by section 367 must be a wooden box Spec. 15A or 15B, or a fiberboard box Spec. 12B, except that equally efficient containers may be used when approved by the Bureau of Explosives.

(g) Radioactive materials Group I, liquid, solid, or gaseous, must be packed in suitable inside containers completely surrounded by a shield of lead or other suitable material of such thickness that at any time during transportation the gamma radiation at one meter (39.3 inches) from any point on the radioactive source will not exceed 10 milliroentgens per hour. The shield must be so designed that it will not open or break under conditions incident to transportation. The minimum shielding must be sufficient to prevent the escape of any primary corpuscular radiation to the exterior of the outside shipping container.

(h) (1) Radioactive materials Group II, liquid, solid, or gaseous, must be packed in suitable inside containers completely shielded so that at any time during transportation the radiation measured at right angles to any point on the long axis of the shipping container will not exceed the following limits:

(*a*) Gamma radiation of 10 mrhm.

(*b*) Electrically charged corpuscular radiation which is the physical equivalent[1] of 10 mrhm. of gamma radiation.

(*c*) Neutron radiation which is the physical equivalent[1] of 2 mrhm. of gamma radiation.

(*d*) If more than one of the types of radiation named in paragraphs (*a*), (*b*), and/or (*c*) is present the radiation of each type must be reduced by shielding so that the total does not exceed the equivalent of paragraphs (*a*), (*b*), or (*c*).

(h) (2) The shielding must be designed so as to maintain its efficiency under conditions normally incident to transportation and must provide personnel protection against fast or slow neutrons and all other ionizing radiation originating in the radioactive materials or any part of the aggregate constituting the complete package.

(i) Liquid radioactive materials Groups I, II, or III must, in addition, be packed in tight glass, earthenware, or other suitable inside containers. The inside containers must be surrounded on all sides and within the shield by an absorbent material sufficient to absorb the entire liquid contents and of such nature that its efficiency will not be impaired by chemical reaction with the contents. If the container is packed in a metal container specification 2R, or other container approved by the Bureau of Explosives, the absorbent cushioning is not required.

(j) Radioactive materials Group III, liquid or solid, must be packed in suitable inside containers completely wrapped and/or shielded with such material as will prevent the escape of primary corpuscular radiation to the exterior of the shipping container, and secondary radiation at the surface of the container must not exceed 10 milliroentgens per 24 hours, at any time during transportation.

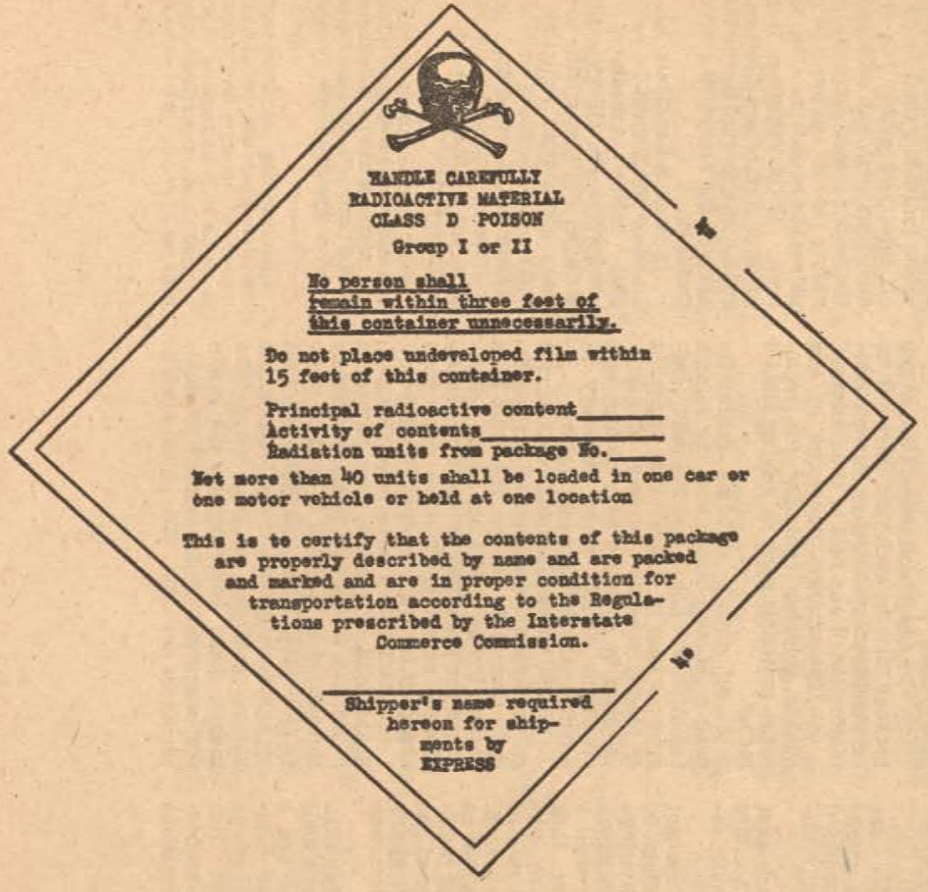
NOTE: In determining compliance with requirements of paragraphs (e), (g), (h), and (j) measurements of radiation must be made with a Landsverk-Wollan Electrometer Model L-100 or equally efficient standardized meter.

[1] For purposes of these regulations the "physical equivalent" of a roentgen is that amount of radiation that would be absorbed in tissue to the extent of 83 ergs per gram. (mrhm. is an abbreviation for milliroentgens per hour at 1 meter (39.3 inches)).

369. (a) Each outside container of radioactive material Group I or II, unless exempt by section 367, must be labeled with a properly executed label as shown below:

RADIOACTIVE MATERIALS LABEL

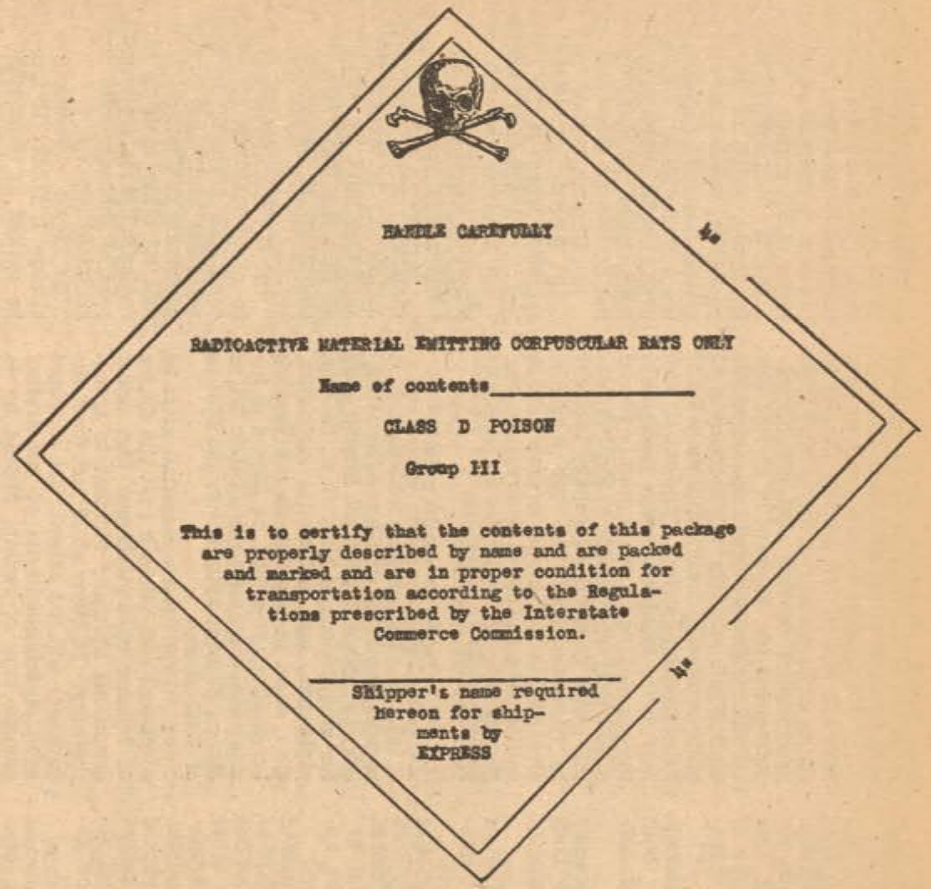
(Red printing on white)



369. (b) Each outside container of radioactive material Group III must, unless exempt by section 367, be labeled with a properly executed label as shown below:

RADIOACTIVE MATERIALS LABEL

(Blue printing on white)

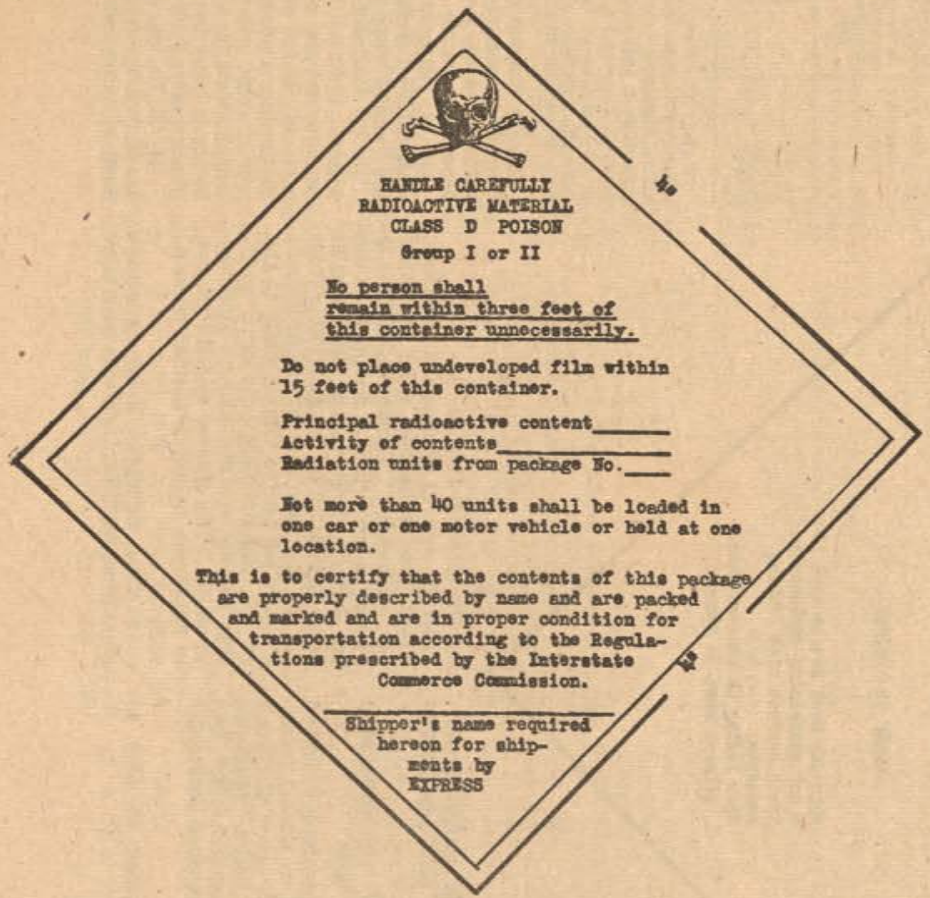


Superseding and amending paragraph (h), section 402 (*Poison label*), order August 16, 1940, to read as follows (add):

(h) (1) "Radioactive Materials" label as described in section 404 (t) on containers of Class D poisons, Group I and II except when exempted by section 367.

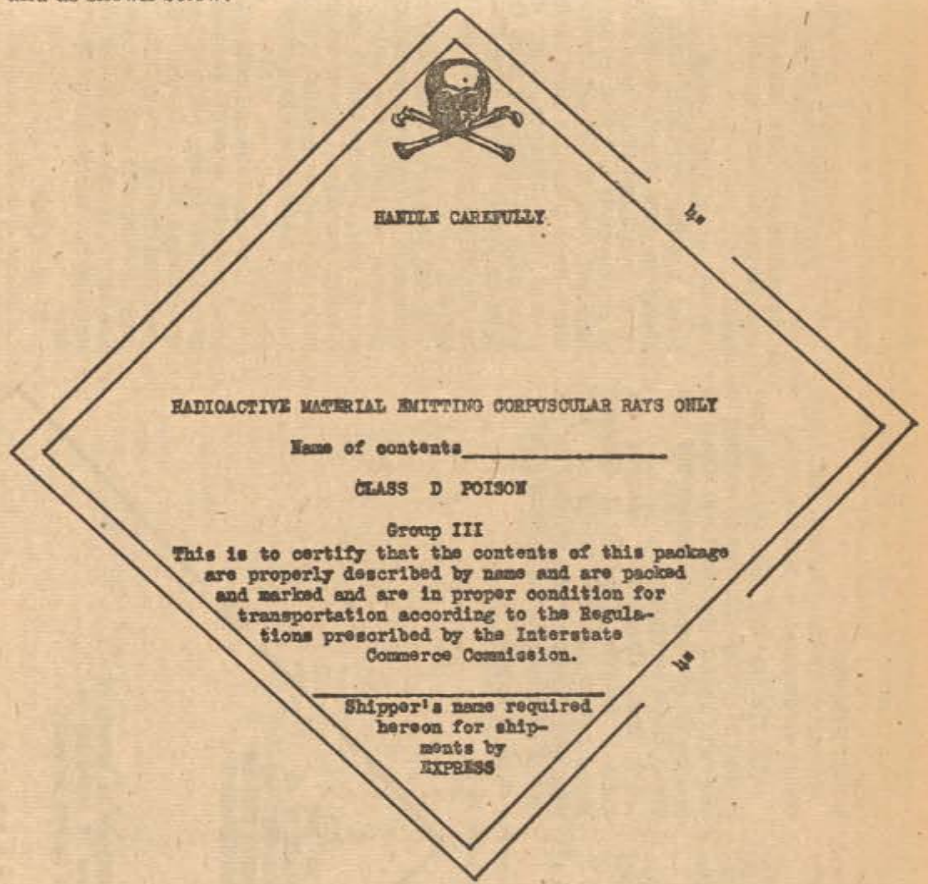
(h) (2) "Radioactive Materials" label as described in section 404 (u) on containers of Class D poisons, Group III, except when exempted by section 367.

404. (t) Labels for radioactive materials (Class D poisons) Group I and Group II must be of diamond shape, white in color, and with each side 4 inches long. Printing must be in red letters inside of a red-line border measuring 3½ inches on each side, as shown below:



The label must be duly executed by the shipper.

404. (u) Labels for radioactive materials (Class D poisons) Group III must be of diamond shape, white in color, and with each side 4 inches long. Printing must be in blue letters inside of a blue-line border measuring 3½ inches on each side, and as shown below:



Part 4—Regulations Applying Particularly to Carriers by Rail Freight

Amending section 532 (*Loading packages of other dangerous articles into cars*), order August 16, 1940, as follows (add):

(j) *Radioactive ores, residues, and similar material.*

(j) (1) Shipments of radioactive ores, residues, or similar material as provided in section 367 must be so loaded as to avoid spillage and scattering of loose material.

(j) (2) The amount of radioactive material loaded in a car must be limited as provided in section 367.

(j) (3) No persons shall remain in a car containing radioactive material unnecessarily and the shipper must furnish the carrier with such information and equipment as is necessary for the protection of the carrier's employes.

(j) (4) Any loose radioactive material must be removed from the car and placed in a closed container in a segregated location and held for instructions from the shipper or the Bureau of Explosives.

Amending headline and sideline descriptions of section 533 (*Loading and storage chart*), order August 16, 1940, by adding column 14, as follows:

Add: "Radioactive materials (class D poisons)".

Add: "X" to columns a, b, c, d, e, f, and g, both horizontally and perpendicularly opposite entry "Radioactive materials (class D poisons)".

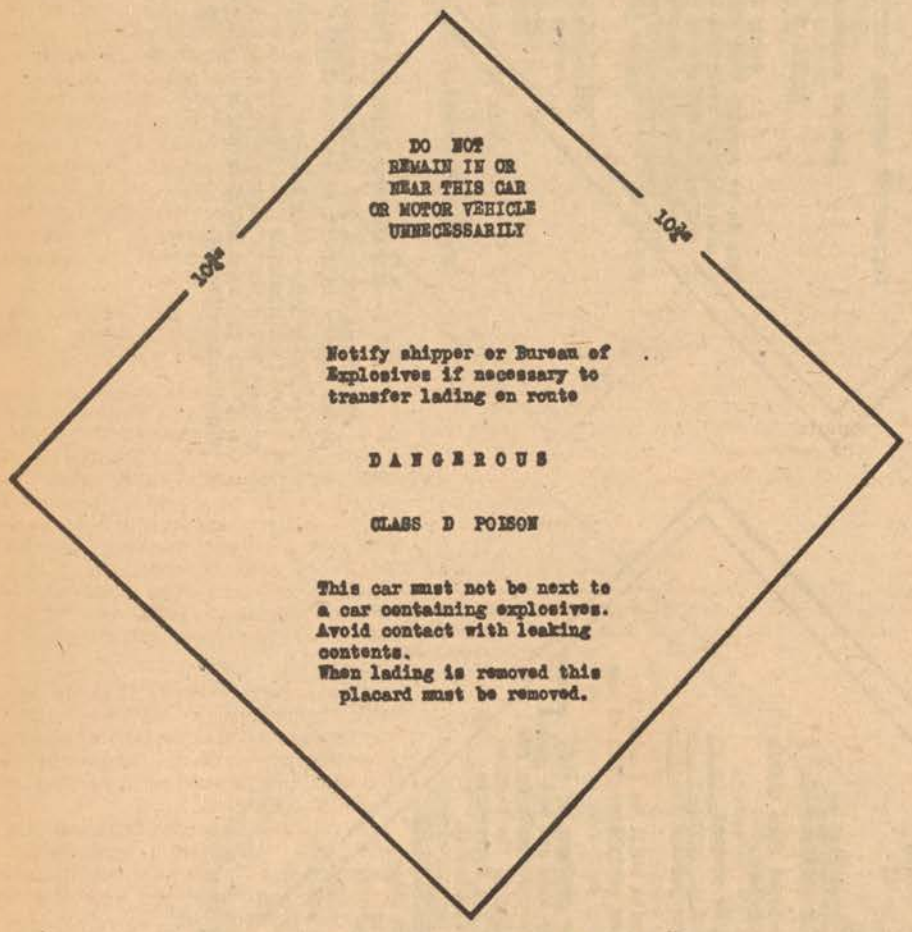
Amending order August 16, 1940, (*Placards on cars*), as follows:

541A. "Dangerous" placards as prescribed in section 552 must be applied to cars containing shipments of Class D poisons as provided in section 366 and 367 of these regulations.

552. The "Dangerous" placard for Class D poisons must be of diamond shape measuring 10¾ inches on each side, and must bear the wording in red letters as shown in the following cut:

DANGEROUS PLACARD FOR CLASS D POISONS

(Reduced size)



Amending section 589 (*Handling cars*), order February 12, 1947, as follows (add):

POSITION IN TRAIN OF CARS CONTAINING CLASS D POISON

(k) (1) In a freight train or mixed train either standing or during transportation thereof, a car placarded "Dangerous—Class D Poison" must not be handled next to cars placarded "Explosives" or next to carload shipments of undeveloped film.

Amending order August 16, 1940, as follows (add):

597A. *Class D Poisons.*

(a) In event of breakage of container, wreck, fire or unusual delay involving cars placarded "Dangerous—Class D Poison" as prescribed in section 541A the car and any loose radioactive material must be isolated as far as possible from danger of human contact and no persons must be allowed to remain close to the car or contents needlessly until qualified persons are available to supervise handling. The shipper and the Bureau of Explosives should be notified immediately.

(b) Cars, buildings, areas, or equipment in which Class D poisons have been spilled must not be again placed in service or occupied until decontaminated by qualified persons.

Part 5—Regulations Applying to Carriers by Rail Express

Amending sec. 655 (*Handling packages*), order November 8, 1941, as follows (add):

(j) (1) A container of radioactive material bearing red label must not be placed in cars, depots or other places closer than 3 feet to an area which may be continuously occupied by passengers, employes, or shipments of animals. When more than one such container is present, the distance from occupied areas must be computed from the table in paragraph (j) (4) by adding the number of units shown on labels on the containers.

(j) (2) In a combination car carrying passengers and/or express shipments, a container of radioactive material must not be placed closer than 3 feet to the dividing partition. For more than one such container the distance must be computed by method described in paragraph (j) (4).

(j) (3) A container of radioactive material, red label, must not be placed closer than 15 feet to any package containing undeveloped film. If more than one such container is present the distance must be computed from the table in paragraph (j) (4) by adding the number of units shown on the labels on the packages.

(j) (4) *Table.*

Total number of units	Minimum distance in feet to nearest undeveloped film	Distance in feet to area that may be continuously occupied by passengers or employees	Distance in feet from dividing partition of a combination car
1 to 10	15	3	3
11 to 20	20	4	4
21 to 30	25	5	5
31 to 40	30	6	6

NOTE 1: The distance in the table must be measured from the nearest point of the radioactive container or containers.

NOTE 2: 1 unit equals 1 milliroentgen per hour at 1 meter for hard gamma radiation or the amount of radiation which has the same effect on film as 1 mrhm. of hard gamma rays of radium filtered by ½ inch of lead.

(j) (5) Not more than 40 units of radioactive material (red label) shall be transported in any car or stored in a depot at one time.

(j) (6) All containers of radioactive material (red label) must be carried by the handles when handles are provided.

(j) (7) Radioactive materials (class D poisons) must not be loaded in the same car with samples of explosives.

(j) (8) If for any reason, a package containing radioactive material (red label) would otherwise remain in the same building for a period longer than 24 hours, it must be moved to a different location after each 24 hours.

(j) (9) In case of fire, wreck, breakage or unusual delay involving any shipment of radioactive material the pack-

age or material should be segregated as far as possible from human contact. The shipper and the Bureau of Explosives should be immediately notified. In case of breakage of a package containing radioactive material and when it appears likely that the inside container may have been damaged, great care must be exercised to prevent contact with, inhalation or any other means of the radioactive material entering the body.

Appendix to Part 3—Shipping Container Specifications

Amending order August 16, 1940, as follows (add):

SPECIFICATION 2R

INSIDE CONTAINERS—METAL TUBES

1. *Size.* Outside diameter of the tube must not exceed 3 inches and length must not exceed 8 inches exclusive of flanges, or handling, or fastening devices.

2. *Manufacture.* Stainless steel, malleable iron, or brass having a wall thickness of not less than $\frac{3}{32}$ inch for diameter up to 2 inches and not less than $\frac{1}{8}$ inch for diameter up to three inches. The ends of the tube must be fitted with screw type closures except that one end of the tube may be permanently closed by a welded or brazed plate. Welded or brazed side seams are authorized.

3. *Welding and brazing.* Must be done in a workmanlike manner and must be free from defects.

4. *Closing devices.* Must be of screw type. Number of threads per inch must be not less than United States Standard pipe threads. Caps or plugs are authorized.

Part 7—Regulations Applying to Shipments Made by Way of Common, Contract, or Private Carriers by Public Highway

Superseding and amending paragraph (a), section 815 (*Labels*), order November 8, 1941, to read as follows:

(a) *Labels.* (See section 404 (e) to (u) for description of labels.) Labels prescribed by the Commission's regulations, Part 3, must have been applied to shipments, unless exempt from these regulations, and in addition the shipper must have certified to compliance with the regulations by writing, stamping, or printing his name underneath the certificate printed thereon or on the shipping papers.

Superseding and amending paragraph (a), section 823 (*Marking on motor vehicles*), order November 8, 1941, to read as follows:

(a) Marking on motor vehicles and trailers other than tank motor vehicles. Every motor vehicle transporting any quantity of dangerous explosives, class A, poison gas, class A, or radioactive material, poison Class D requiring red radioactive materials label, and every motor vehicle transporting 2,500 pounds or more of explosives, class B, inflammable liquids, corrosive liquids, compressed gas and tear gas, or 5,000 pounds or more of two or more articles of these groups shall be marked or placarded on each side and rear with a placard or lettering in letters not less than 3 inches high on a contrasting background as follows:

Explosives, class A	Explosive.[1]
Explosives, class B	Dangerous.[1]
Inflammable liquid	Dangerous.[1]
Corrosive liquid	Dangerous.[1]
Compressed gas	Compressed gas.[1]
Poison gas, class A	Poison gas.[1]
Tear gas	Dangerous.[1]
Dangerous, class D poison.	Dangerous—Radioactive material.

[1] No change in note.

Amending section 824 (*Loading and unloading*), order November 8, 1941, as follows (add):

RADIOACTIVE MATERIAL

(i) (1) A container of radioactive material bearing red label must not be placed in vehicles, terminals, or other places closer than 3 feet to an area which may be continuously occupied by passengers, employees, or shipments of animals. When more than one such container is present, the distance from occupied areas must be computed from the table in paragraph (i) (3) by adding the number of units shown on labels on the containers.

(i) (2) A container of radioactive material bearing red label must not be placed closer than 15 feet to any package containing undeveloped film. If more than one such container is present the distance must be computed from the table in paragraph (i) (3) by adding the number of units shown on the labels on the packages.

(i) (3) *Table.*

Total number of units	Minimum distance in feet to nearest undeveloped film	Distance in feet to area that may be continuously occupied by passengers or employes for periods—	
		Up to 8 hours	Exceeding 8 hours
1 to 10	15	3	5
11 to 20	20	4	7
21 to 30	25	5	9
31 to 40	30	6	10

NOTE 1: The distance in the table must be measured from the nearest point of the radioactive container or containers.

NOTE 2: 1 unit equals 1 milliroentgen per hour at 1 meter for hard gamma radiation or the amount of radiation which has the same effect on film as 1 mrhm. of hard gamma rays of radium filtered by ½ inch of lead.

(i) (4) Not more than 40 units of radioactive material (red label) shall be transported in any vehicle or stored in a terminal at one time. Packages must be so blocked or braced in vehicles as to prevent any shift of lading under conditions normally incident to transportation.

(i) (5) All containers of radioactive material (red label) must be carried by the handles when handles are provided.

(i) (6) Radioactive materials (class D poisons) must not be loaded in the same vehicle with class A explosives.

(i) (7) If for any reason, a package containing radioactive materials (red label) would otherwise remain in the same building for a period longer than 24 hours, it must be moved to a different location after each 24 hours.

Amending headline and sideline descriptions of section 825 (*Loading and storage chart*), *order* November 8, 1941, by adding column 14, as follows:

Add: "Radioactive materials (class D poisons)".

Add: "X" in columns a, b, c, d, e, f, and g, both horizontally and perpendicularly opposite entry "Radioactive materials (class D poisons)".

Amending section 828 (*Accidents etc.*), Order November 8, 1941, as follows (add):

RADIOACTIVE MATERIALS—POISON D

(g) In case of accident to vehicle resulting in breakage of, or unusual delay to any shipment of radioactive material the package or material should be segregated as far as possible from human contact. The shipper and the Bureau of Explosives should be immediately notified. In case of breakage of a package containing radioactive material and when it appears likely that the inside container may have been damaged, great care must be exercised to prevent contact with or inhalation of radioactive material by any person.

Amending section 850 (*Vehicles transporting passengers etc.*), order November 8, 1941, as follows (add):

(g) Radioactive Materials on passenger-carrying vehicles. No motor carrier may transport any radioactive material poison, Class D, requiring red or blue radioactive material label under these regulations in or on any bus while engaged in the transportation of passengers except where no other practicable means of transportation is available. Packages of radioactive materials must be handled and placed in the vehicle in accordance with the requirements of section 824 (i).

It is further ordered, That the aforesaid regulations as further amended herein shall be and remain in full force and effect on and after January 21, 1948, and shall be observed until further order of the Commission.

It is further ordered, That compliance with the aforesaid regulations, as amended, made effective by this order, is hereby authorized on and after day of service hereof;

And it is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of Federal Register.

(41 Stat. 1445, 49 Stat. 546, 52 Stat. 1237, 54 Stat. 921, 56 Stat. 176; 18 U. S. C. 383, 49 U. S. C. 304)

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 47-9840; Filed, Nov. 4, 1947; 8:50 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1664]

PART 56—COORDINATION AND SUPERVISION OF WORK

REVOCATION

Part 56 of Title 43 relating to the coordination and supervision of the work of this Bureau in Alaska is revoked. (R. S. 453, 2478; 43 U. S. C. 2, 1201; sec. 403 (e) of the President's Reorganization Plan No. 3 of 1946)

FRED W. JOHNSON,
Director.

Approved: November 4, 1947.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

[F. R. Doc. 47-9940; Filed, Nov. 7, 1947; 8:53 a. m.]

[Circular 1663]

PART 147—EXCHANGES BY STATES UNDER TAYLOR GRAZING ACT

LANDS WHICH MAY BE OFFERED IN EXCHANGE

The fourth paragraph of § 147.2, as amended by Circular 1645 of April 7, 1947 (12 F. R. 2477), is further amended to read as follows:

§ 147.2 *Lands which may be offered in exchange.* * * *

Unsurveyed school sections within or without the boundary of a grazing district may be offered by the State in an exchange based upon equal areas, but the Secretary of the Interior will consider and determine whether the values of the offered and selected lands are approximately equal for the purpose of the exchanges and no mineral reservations to the State may be made in such unsurveyed sections, the identification of which will be determined by protraction or otherwise, the State by such selections waiving all rights to the unsurveyed sections.

(Sec. 2, 48 Stat. 1270; 43 U. S. C. 315a)

FRED W. JOHNSON,
Director.

Approved: November 3, 1947.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

[F. R. Doc. 47-9939; Filed, Nov. 7, 1947; 8:52 a. m.]

[Circular 1662]

PART 192—OIL AND GAS LEASES

LEASES FOR WILDLIFE REFUGE LANDS

The following new section is added to Part 192:

§ 192.9 *Leases for wildlife refuge lands.* No noncompetitive oil and gas lease under the act will be issued for lands within a wildlife refuge (a) unless those lands are subjected to an approved cooperative or unit plan, and (b) unless the lease contains a provision which prohibits drilling or prospecting on the refuge lands except when consented to by the Secretary of the Interior upon the advice of the Fish and Wildlife Service. Subject to the same two conditions, competitive leases also may issue for refuge lands. Even if these conditions are not met, competitive leases may nevertheless issue if Fish and Wildlife Service reports that oil and gas development may be conducted without destroying the usefulness of the lands as a sanctuary for wildlife, or, in the absence of such a report, wherever the Secretary determines that the national interest in securing the contemplated oil and gas production outweighs the importance of maintaining the refuge as a sanctuary for wildlife (Sec. 32, 41 Stat. 450, 30 U. S. C. 159).

FRED W. JOHNSON,
Director.

Approved: October 29, 1947.

OSCAR L. CHAPMAN,
Acting Secretary of the Interior.

[F. R. Doc. 47-9938; Filed, Nov. 7, 1947; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 927]

HANDLING OF MILK IN NEW YORK METROPOLITAN MILK MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 C. F. R., Supps., 900.1 et seq. 11 F. R. 7737, 12 F. R. 1159, 12 F. R. 4904) notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a marketing agreement and a proposed amendment to the order, regulating the handling of milk in the New York metropolitan milk marketing area, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). nterested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the twentieth day after publication of this report in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and the proposed amendment to the order, as amended, were formulated was held at Utica, New York, and New York, New York, on March 17–25, 1947, notice of which was issued on March 7, 1947 and published in the FEDERAL REGISTER on March 12, 1947 (12 F. R. 1689).

Action has heretofore been taken with respect to certain of the material issues concerning which evidence was presented at the hearing. Findings and conclusions with respect to such issues were set forth in the decision of the Secretary filed on June 30, 1947 (12 F. R. 4413). Those issues [1] with respect to which findings and conclusions were deferred, pursuant to the decision of June 30, 1947, pending further study and analysis of the hearing record, and with respect to which recommended findings and conclusions are herein set forth, are as follows:

1. Revision of the pricing provision for Class I–C milk (H. N. Nos. 29, 30, and 31).

2. Elimination of the "floor provisions" as now contained in the pricing provisions for Class II–B, II–D, and II–E milk (H. N. Nos. 32 and 33).

3. Revision of the pricing provision for Class III milk (H. N. Nos. 35 and 36).

4. Elimination of the "floor provisions" and to make other changes in the pricing provisions for Class IV–A and IV–B milk (H. N. Nos. 6, 37, 38, 39, and 40).

5. A new method of calculating the butterfat differential used in connection with payments to producers (H. N. No. 45).

6. Revision of the pricing provision for Class V–B milk (H. N. No. 58).

7. Revision of provisions for payments for milk or milk products other than from producer sources (H. N. Nos. 52, 53, 54, 55, and 56).

Findings and conclusions. Each of the issues, followed by the findings and conclusions with respect to that issue, are numbered to correspond with the numbers of the issues above set forth.

Issue No. 1. No change should be made in the present provisions of the order for pricing Class I–C milk sold in New England or elsewhere.

The Class I–C price during the months of January, February, October, November and December 1946, was higher than the Class I–A price, but during the months of March through September 1946 was lower than the Class I–A price, and averaged, for all Class I–C milk in

[1] The description of each issue will be followed by the numbers of the proposals (as set forth in the notice of hearing issued March 7, 1947) directly associated with that issue, thus: (H. N. No. —).

1946, 6 cents lower than the Class I–A price. During the period July 1941 through February 1947, there were 56 months in which the Class I–C price was lower than the Class I–A price, 11 months in which the Class I–C price was higher than the Class I–A price, and 1 month in which the prices were the same.

The monthly volume of Class I–C milk during the period July 1941 through February 1947 has been largest during seasons of shortest production, and it is during these same months when the volume of Class I–C milk was highest that, in general, there has been the smallest difference between the Class I–C and Class I–A prices.

The utilization of pool milk in Class I–C at the present Class I–C price enhances the uniform price received by producers under Order No. 27. Handlers of milk in markets in which Class I–C milk is sold are at liberty to obtain their fluid milk supplies either from pool or from non-pool sources. A major portion of the supply for such markets is purchased from non-pool sources, and from producers at prices which are not fixed pursuant to any State or Federal regulation, and at prices approximately equivalent to the uniform price received by producers under Order No. 27.

A substantial volume of pool milk is now utilized in Class I–C, such volume constituting from 6 to 9 percent of the annual volume of pool milk during the years 1942–1946. An increase in the Class I–C price, thus increasing the cost of Class I–C milk in relation to the uniform price, would tend to make it more advantageous for handlers to purchase from pool sources a smaller portion of their fluid milk requirements for markets in which Class I–C milk is now sold. This, in turn, would tend to reduce the uniform price and increase the volume of unregulated milk.

On the other hand, an increase in the Class I–C price would increase the returns to producers on that volume of milk utilized in Class I–C. Evidence in the record is not conclusive as to the precise Class I–C price which will yield the maximum return to producers, that is, at what precise point the loss of Class I–C sales would more than offset the advantage of a higher Class I–C price. However, on the basis of the relationship which prevailed in 1946 between the Class I–C price and the Class I–A price, the possibility of increasing the returns to producers by pricing Class I–C milk at the class I–A price is limited to 6 cents per hundredweight on the volume of Class I–C milk, which in 1946 constituted about 9 percent of total pool milk. A reduction in the returns to producers as a result of a decline in the volume of Class I–C milk very readily could be substantially in excess of 6 cents per hundredweight on the present volume of Class I–C milk, the exact amount depending upon the amount of the reduction in the volume of total pool milk, if any, associated with the loss to the pool of Class I–C sales, and the alternative utilization available for pool milk previously utilized in Class I–C.

The volume of Class I–C milk sold in New England markets is small in relation to the total volume of Class I–C milk, and in relation to the volume of Boston pool milk sold in New England secondary markets. As in the case of total Class I–C sales, the sales of Class I–C milk in New England markets tends to be highest in months when there is the least difference between the Class I–A and Class I–C prices.

Evidence in the record does not show that New York pool milk has been made available to New England markets at a price lower than the price at which Boston pool milk is available in the same market, nor that an increase in the Class I–C price would reduce the competition in New England markets between Boston pool milk and milk from other sources. A Class I–C price high enough to induce New York handlers supplying New England markets to withdraw milk from the New York pool for the purpose of supplying such markets could readily result in a reduction in the price of milk offered in New England markets in competition with Boston pool milk.

General findings and conclusions relative to Issues 2, 3, and 4. Producers are entitled to a return on excess milk (milk in excess of marketing area requirements for fluid milk and cream) commensurate with its value for use in the highest value products for which markets and processing facilities are available. This concept of pricing is particularly significant in the establishment of class prices for excess milk in a market in which there is market-wide equalization of producer prices.

A handler obtains and holds producers, at least in part, by paying a price that is favorably compared with the price paid by competing handlers. A handler operating in the absence of market-wide equalization must utilize milk in those products yielding him a total return above handling costs sufficient to enable him to pay producers a price high enough to assure him a sufficient supply. On the other hand, a handler operating in a market in which there is market-wide equalization is not subject to such compulsion and the tendency is to utilize milk in those classes yielding him, as a handler, the highest return above established class prices and his handling cost, without the same regard to the relative return to producers.

Failure to establish class prices for excess milk, in a market in which there is market-wide equalization, which are commensurate with its value for use in the highest value products for which markets and processing facilities are available would make necessary the maintenance of a higher Class I price in order to maintain a uniform price to producers high enough to insure an adequate supply. A Class I price which is higher than necessary would not be in the public interest.

However, it is in the interest of orderly marketing to establish minimum producer prices for excess milk at a level which will assure acceptance by handlers of the necessary reserve supply. Substantial seasonal variation in production makes it necessary for handlers to provide facilities for handling milk at certain seasons of the year which are not necessary at other seasons of the year. More facilities and markets for the handling of excess milk are required during months of high production than during months of low production.

The Agricultural Marketing Agreement Act requires the establishment of class prices which are uniform as to all handlers, but does not require the establishment of class prices so as to make it profitable at all times for a handler to utilize milk in any product of his choice.

Issue No. 2. It is concluded that no change should be made in the present pricing provisions for Class II–B milk, but that the "price floor" for Class II–D and Class II–E milk should be the butter value of the milk rather than the butter value plus 10 cents as is now provided. Proposals were made to eliminate the "price floors" now contained in the pricing provisions for Class II–B, Class II–D, and Class II–E milk, § 927.5 (a) (6), (8), and (9).

No evidence was presented at the hearing in support of the proposal to eliminate from the present provision of the order for the pricing of Class II–B milk the proviso, "that in no event shall the Class II–B price be lower than the Class II–D price." The evidence in the record with respect to the Class II–D and Class II–E price floor is not pertinent to the question of eliminating the Class II–B price floor.

The utilization of milk in Classes II–D and II–E constitutes an outlet for excess milk which yields a return which compares favorably with the return from other outlets for such milk. It is an economically sound practice for Boston and Philadelphia, as well as other eastern cream markets, to obtain their requirements for fluid cream from nearby sources at times when it is available. Class II–D and II–E price floors would be too high if such floors resulted in discouraging the utilization of pool milk for cream in Boston and Philadelphia markets at times when pool milk is available for that purpose. There appears to have been instances when this situation has prevailed.

Since cream derived from New York pool milk has constituted, and may in the future constitute, a substantial proportion of the cream sold in Boston and Philadelphia markets, such cream is an important factor in determining the average price of cream in those markets. The value of butterfat in cream sold in Boston and Philadelphia over the value of butterfat in butter tends to be highest when supplies of cream from nearby sources are low, and tends to be the lowest when supplies from nearby sources are plentiful. The establishment of Class II–D and Class II–E prices, which are too low in relation to the value of butterfat in cream sold in Boston and Philadelphia, could, in itself, depress the price of cream in Boston and Philadelphia. Cream from distant sources is seldom sold in eastern markets at prices returning a lower price for butterfat than the value of such butterfat if utilized for butter.

Milk supplies in the northeast are inadequate to provide the entire requirements of eastern markets for cream dur-

ing all seasons of the year. This being the case, there appears to be no economic justification for a return to producers for milk used in Class II–D and II–E products which is less than its value for butter in order to retain an outlet which they are not in a position to supply at times when the cream market returns the highest premium over the value of milk for butter.

Issue No. 3. No change should be made in the present provision of the order for the pricing of Class III milk, except to substitute for the present floor price based on the price of butter in Chicago a floor price equal to the Class IV–A price plus 91.25 percent of the V–B price.

Proposals considered at the hearing for changing the Class III pricing provision would, if adopted, eliminate the present floor price computed on the basis of the price of butter in Chicago. This floor price was in effect prior to October 1, 1946 during which time the Class III price was 10 cents over the average price paid by Midwestern evaporated milk plants, and was not changed when the order was amended (effective October 1, 1946) establishing a lower Class III price. The present floor provision, therefore, could operate to offset the purpose and effect of the reduction in the formula price, and should be changed to a provision establishing a Class III floor price equivalent to the price established under the order for milk utilized for butter and nonfat dry milk solids (the Class IV–A formula price plus the value of 91.25 pounds of milk at the Class V–B price). Such a change will result in a Class III floor price equivalent to the Class II–D and II–E floor prices, and will be consistent with the general policy of preventing a reduction in a given class price below the value of the milk if utilized in an alternative generally lower priced class.

The utilization of milk in Class III at prices heretofore in effect and at the present Class III price has constituted, and now constitutes, an outlet for milk in excess of marketing area requirements for fluid milk and cream which yields a return to producers which compares favorably with the return from other outlets for such milk.

The proportion of pool milk in excess of marketing area requirements for fluid milk and cream which was utilized in evaporated milk has declined during the past five years. This decline has been more than offset however by an increase in the proportion of milk used in other Class III products, with the result that the proportion of excess milk utilized in all Class III products increased materially during 1943, 1944 and 1945, and then declined in 1946 but remained higher than during the years 1940, 1941 and 1942. The percentage of excess milk utilized during 1946 in classes returning a lower price than in Class III was about the same as in 1945. There was an increase from 1945 to 1946 in the percentage of excess milk utilized in classes returning a higher price than in Class III. Such increase was approximately equal to the decline in the percentage of excess milk utilized in Class III.

The Class III price, by reason of the amendment to the order effective on October 1, 1946, was reduced 10 cents during the months of March through June, 2 cents during the months of January, February, July, August and September, and was increased 5 cents during the months of October, November and December. This constituted, for the calendar year 1947, an average (unweighted) reduction of 4.2 cents. Considering the seasonal variation, as it existed in 1945, in the production of Class III products, this reduction in the Class III price amounted to about 7 cents per hundredweight. In addition, the cost to handlers for milk of average butterfat test was further reduced, effective October 1, 1946, about 4 cents per hundredweight by revision of the method of computing the Class III butterfat differential.

The Class III price averaged 6.6 cents lower during 1946 than the price of milk utilized for cream in the lowest priced cream Class (II–E). Had the present Class III price provision been in effect during all of 1946, the Class III price would have averaged 10.8 cents less than the price of milk utilized for cream in the lowest priced cream class, and 31.3 cents more than the price of milk utilized for butter. Had the second alternative proposal as set forth in item No. 35 of the Notice of Hearing been in effect in 1946, the Class III price would have averaged 20.1 cents less than the price of milk utilized for cream in the lowest priced cream class, and only 22 cents more than the price of milk utilized for butter.

Further reduction of the Class III price would increase, by the amount of any such reduction, the operating advantage to handlers of utilizing milk in Class III in relation to utilization in other classes, and would reduce the return to producers on milk utilized in Class III. The return to producers would also be reduced by any increase in the volume of excess milk utilized in Class III in relation to the volume utilized in Classes II–C, II–D, II–E and II–F. The return to producers would be increased by an increase in the volume of excess milk utilized in Class III in relation to the volume utilized in Classes IV–A and IV–B.

The record does not show the relative volumes of milk utilized in the various classes during a full year of operations under the present Class III price provision. Data in the record showing the utilization of excess milk prior to the reduction in the Class III price to its present level is not necessarily conclusive as to the choices to be exercised by handlers in the utilization of excess milk during later periods. Such data, however, reveal no shift from Class III to lower value products in the utilization of excess milk.

Issue No. 4. Price quotations for U. S. Grade AA, or U. S. 93–Score butter should not be substituted for price quotations for U. S. Grade A, or U. S. 92–Score butter in the Class IV–A price formula. No change should be made in the present Class IV–A and IV–B price provisions, except that the present price floors now applicable during the months of October through February should be applicable only during the months of October, November, and December.

Price quotations for U. S. Grade AA or U. S. 93-score butter average higher than for U. S. Grade A or U. S. 92-score butter. The use of price quotations for U. S. Grade AA or U. S. 93-score butter in the Class IV–A price formula would result in a higher Class IV–A price. Evidence in the record is lacking concerning other essential factors affecting the Class IV–A price.

The utilization of excess milk in cheddar cheese (and other Class IV–B cheese) returns a price to producers lower than on milk utilized in any other class, and is thus the least desirable use for pool milk. Facilities for the utilization of excess milk for the manufacture of cheddar cheese are now utilizing at the present Class IV–B price all excess milk not utilized in higher value classes. It has not been shown that a lower Class IV–B price is necessary to assure utilization of all excess milk.

The percentage of excess pool milk utilized in Class IV–B, except for the year 1942, has remained relatively constant during the period 1940–1946. About 87 percent of the milk utilized in Class IV–B during the year 1946 was so utilized during the months of April through July.

The cost of manufacturing cheese has increased substantially since the present Class IV–B price formula has been in effect. Evidence in the record is lacking, however, concerning other essential factors affecting the Class IV–B price. The market value of cheese made from Class IV–B milk cannot be determined from the hearing record.

Proposals were made (items 38 and 39 of Notice of Hearing) to eliminate the present provisos in the Class IV–A and IV–B pricing provisions under which such prices are established during the months of October through February at not less than the Class II–E and Class III prices, respectively.

The Class IV–A price, by reason of the proviso, ranged higher than it otherwise would have been by from 10 (in February 1947) to 35.7 (in January 1947), averaging 21.4 cents, and the Class IV–B price, by reason of the proviso, ranged higher than it otherwise would have been by from 25 (in October 1946) to 97.9 cents (in December 1946), and averaged 60.5 cents higher.

The present Class IV–A and IV–B pricing provisions constitute an incentive for the utilization of milk in other classes during the months of October through February.

Inability of handlers to utilize all excess milk in classes other than IV–A and IV–B during the months of October through February has not been demonstrated.

The milk equivalent of cream received at Boston and Philadelphia from midwestern sources during the period October 1946–February 1947 was several times larger than the volume of milk utilized during that period in Class IV–A and IV–B.

Facilities exist in the milkshed for the utilization in classes other than IV–A and IV–B of a volume of milk very substantially in excess of the volume utilized

in Classes IV–A and IV–B during the months of October 1946–February 1947.

The record does not show prices at which New York handlers offered cream in eastern markets during the months of October 1946–February 1947, nor the prices which handlers in eastern cream markets offered to pay New York handlers for cream during that period.

The market for fluid milk has not been shown to have been demoralized by reason of existence of the present Class IV–A and Class IV–B pricing provisions. The possibility of transportation tie-ups, strikes, severe storms, etc. exists as hazards to which handlers and producers are subject, but does not constitute justification for producer prices under which all of the risk is borne by producers.

However, facilities needed for the utilization of excess milk are greater during the months of January and February than during the months of October, November and December. The record shows that a total of 10.6 million pounds of milk was utilized in Class IV–A and IV–B during the period October 1946–February 1947, and that approximately 70 percent of such utilization occurred during the months of January and February.

Issue No. 5. No change should be made in the method now provided in the order for calculating the butterfat differential used in connection with payments to producers.

It was contended that the present method of computing the producer butterfat differentials is inequitable in that it allegedly does not result in differentials which accurately represent the true value of butterfat in producer milk.

The butterfat differentials paid by handlers for Classes I–A, I–B and I–C milk are fixed by the order at 4 cents for each one-tenth pound of butterfat above or below the basic test of 3.5 percent. The butterfat differential paid by handlers for each of the other classes of milk increases or decreases in accordance with changes in the market value of butterfat in each class. When, as at present, the butterfat differentials established for all classes of milk, other than classes I–A, I–B and I–C are higher than 4 cents per point, the producer butterfat differential tends to be reduced by reason of the lower fixed differential of 4 cents on Class I milk, and is lowest during months in which the proportion of Class I milk is highest.

If the differentials thus paid by handlers for butterfat in the various classes of milk correctly reflect the true value of such butterfat, their weighted average is the true value of butterfat in producers' milk as utilized in the market. The present producer butterfat differential is such a weighted average, and is not materially affected by the use of the pounds of butterfat for the preceding month in computing the weighted average.

The present method results in a producer differential which reflects the market value of butterfat in the pool above or below the basic test, and is approximately equal to the average butterfat differential paid by handlers on all pool milk.

A proposal was made to adopt substantially the same method of computing the producer butterfat differential as is provided under the Boston order. Handlers under the Boston order pay a butterfat differential on all classes of milk which is the same as the producer butterfat differential. If handlers under the New York order paid a differential on all Class I milk equal to the differential paid by Boston handlers on Class I milk, the New York producer butterfat differential would be higher than at present, and would more nearly approximate the Boston producer butterfat differential and the differential which would result from adoption of the proposals made at the hearing.

Producers under both the Boston order and under the New York order at the present time receive in the form of butterfat differentials approximately the same amount of money as is paid by handlers for butterfat in excess of the basic test. The difference between the Boston and New York producer butterfat differentials is due to differences in determining the value of butterfat in the various classes of milk, rather than to any basic difference between the two methods of computing the producer butterfat differential.

Each of the two proposals which were made would result in current producer butterfat differentials higher than the weighted average of class differentials paid by handlers. The proposed producer differentials would thus be higher than the value of butterfat in producer milk as used in the market. Such a result was not justified by the record.

Issue No. 6. No change should be made in the present provision for pricing Class V–B milk.

Evidence in the record is inadequate to support a change in the price of Class V–B milk. Evidence is also inconclusive as to the amount of the adjustment in the formula necessary to compensate for the difference in the Class V–B price which would result from the substitution of United States Department of Agriculture quotations for "Producers' Price Current" quotations, or from the substitution of quotations for nonfat dry milk solids for human consumption only, for the quotations now used.

Issue No. 7. Section 927.9 (h) of the order should be amended to make equalization payments for milk or milk products other than from producer sources applicable to frozen desserts and homogenized mixtures used commercially in frozen desserts in the same manner as such payments are now applicable to milk, cultured or flavored milk drinks, cream, plain condensed milk and skim milk. No change should be made in this section of the order to make the payments inapplicable in the event of a declaration of emergency by a health authority having jurisdiction in the marketing area, or to make payments inapplicable to Class II–B products.

Payments under § 927.9 (h) are now applicable to Class II–B cream and plain condensed milk brought into the marketing area and used in the manufacture of frozen desserts or homogenized mixtures. Payments are at present not applicable, however, if these same ingredients are used in the manufacture of frozen desserts or homogenized mixtures outside of the marketing area and brought into the marketing area in the form of frozen desserts or homogenized mixtures. A potential condition of inequity among handlers therefore prevails.

The term "used commercially in frozen desserts" is designed to indicate that the payments are intended to apply only to homogenized mixtures used commercially in the production of frozen desserts rather than to preparations sold directly to the consumer for home manufacture of frozen desserts.

As to the proposal to eliminate the present provision for payments on Class II–B products, the evidence shows that either pool plants or nonpool plants may constitute sources of such products and may be fully approved as such sources by marketing area health authorities. Failure to provide for payments on Class II–B products from nonpool sources could result in an inequity of cost of such products to handlers, and the substitution of nonpool milk for pool milk for the manufacture of Class II–B products.

Elimination of the payments for milk or milk products from nonpool sources in the event of a declaration of emergency by a marketing area health authority would leave no assurance that handlers could not obtain such milk or milk products from nonpool sources at a cost substantially less than from pool sources for use in the same products. The order at present contains a provision, § 927.9 (h) (2) (iv), under which the rate of payment on cream and plain condensed milk is the difference between the Class II–A or Class II–B price, as the case may be, and the Class II–E price in the event of a finding by the market administrator that there is an inadequate supply of cream or plain condensed milk in the marketing area and that such products are available from nonpool sources. No justification is found in the record for substituting a determination of a marketing area health authority for the finding of the market administrator as to the adequacy of the supply. The record does not show that the cost to handlers of supplies of cream or plain condensed milk from nonpool sources in the event of an inadequate supply from pool sources would be higher than the weighted average Boston cream price on which the Class II–E price is based. Accordingly, the payment during periods of inadequate supply of the difference between the II–A or II–B price and the II–E price on supplies of cream and plain condensed milk from nonpool sources would merely equalize the cost as between handlers purchasing supplies from pool sources and those obtaining supplies from nonpool sources. It is extremely unlikely that supplies from regularly approved sources will be inadequate to meet the requirements of the marketing area for milk, skim milk, or cultured or flavored milk drinks. Accordingly, the necessity for making provision for a different rate of payment on these products than is now provided is not apparent.

It also was contended that § 927.9 (h) of the order is illegal because it allegedly

violates section 8c (5) (G) of the act and is not otherwise authorized by the act. Section 927.9 (h) of order 27 is intended to implement and supplement the other provisions of the order by minimizing the danger that unpriced and unpooled milk would otherwise compete unfairly with pooled milk priced under the order. It tends to equalize the cost of unpriced nonpooled milk and priced pooled milk. The record does not show that this provision is unnecessary or that it does not otherwise come within the authority specified in section 8c (7) (D) of the act. Furthermore, this provision of the order does not prohibit or limit the marketing of milk or its products in the marketing area within the meaning of section 8c (5) (G) of the act.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of Milk Dealers' Association of Metropolitan New York, Inc.; Association of Ice Cream Manufacturers of New York State, Inc.; Metropolitan Cooperative Milk Producers' Bargaining Agency, Inc., and Eastern Milk Producers' Cooperative Association, Inc.; New York State Association of Refrigerated Warehouses; New England Milk Producers' Association; Mutual Cooperative of Independent Producers, Inc.; New York State Cheese Manufacturers Association; New York State Guernsey Cooperative, Inc., and by Dairy Producers, Inc.

These briefs contained statements of fact, conclusions and arguments with respect to most of the issues considered at the hearing. Some of the proposed findings of fact are immaterial to the issues presented, or outweighed by other facts found herein, and some of the proposed conclusions do not logically follow from the proposed findings of fact. Although some of the briefs do not contain specific requests to make the proposed findings and conclusions stated therein, it is assumed that they were submitted with that intention and are treated accordingly.

Every point covered in the briefs with respect to the issues on which findings and conclusions are herein set forth was carefully considered, along with the evidence in the record, in making the findings and reaching the conclusions herein set forth. To the extent that the proposed findings and conclusions differ from the findings and conclusions contained herein, the specific or implied requests to make such findings are denied because of the reasons stated for the findings and conclusions in this recommended decision.

Proposed findings and conclusions on a number of procedural questions were requested in the brief of the Milk Dealers' Association of Metropolitan New York, Inc. These included contentions that the notice of hearing was inadequate with respect to certain proposed amendments, that due regard was not had for the convenience and necessity of the parties as to the hearing notice on proposal No. 31, that the presiding officer has broader powers than he stated on the record, and that there must be a proponent for each proposal. These contentions were all made in opposition to proposals which are recommended elsewhere herein to be rejected on substantive grounds. Rulings on these procedural questions thus are not necessary to a decision on the proposals in question. Moreover, the suggested findings and conclusions with respect to most of these procedural questions are not limited to the facts and circumstances presented by this record but instead request broad and general statements of policy. Such broad questions should not be ruled upon in decisions such as this except to the extent that a ruling thereon is necessary to the decision of a material issue shown to be presented by the record. Other broad requested findings and conclusions, as for example, requested rulings as to when official notice will be taken, how many copies of exhibits should be presented, and in what circumstances testimony at prior hearings is receivable, are in the same category. Accordingly, the request to make such findings and conclusions is denied.

It was asserted that Exhibits 42, 43 and 48, which are statistical tables, were inadmissible because allegedly they were not submitted or received in evidence in connection with any specific proposal. A ruling also was requested that such statistical tables cannot be considered except with respect to issues as to which the proponents of those issues specifically have introduced them or have specified their applicability. Exhibits 42 and 43 were stated at the hearing to be relevant to a particular issue. Exhibits 48 and 49 contain a number of statistical tables pertinent to various issues at the hearing and were properly received on that basis. None of these exhibits were shown to be irrelevant to issues presented at the hearing. If factual evidence has been properly established as to credibility and it is relevant to any issue at the hearing, its reception in evidence makes it available for consideration on all other issues to which it may also be relevant, irrespective of whether a proponent or opponent of a proposal has called attention to such relevancy at the hearing or in the briefs. A fact which has been established in evidence at the hearing is a fact with respect to any issue to which it may be pertinent. Accordingly, these requested rulings are denied. This question should not be confused with the question of the credibility or probative value of evidence. An exhibit may be relevant to an issue or issues but may have little probative value. Thus Table 13 in Exhibit 48 and the comparable table in Exhibit 49 were shown to have limited probative value and were given little weight in arriving at the findings and conclusions elsewhere made herein.

Recommended marketing agreement and order. The following amendments to the order are recommended as the detailed and appropriate means by which these conclusions may be carried out.

The proposed marketing agreement is not included in this report because the regulatory provisions thereof would be the same as those contained in the order, as amended, and as proposed here to be further amended.

1. Amend § 927.5 (a) (8) by changing the proviso therein to read: "*Provided*, That in no event shall the Class II–D price be lower than an amount computed by the market administrator as follows: From the average of the highest prices reported daily during such month by the United States Department of Agriculture for U. S. Grade A or U. S. 92-score butter at wholesale in the New York market, deduct four cents, add 20 percent, and multiply by 3.5."

2. Amend § 927.5 (a) (9) by changing the proviso therein to read: "*Provided*, That in no event shall the Class II–E price be lower than an amount computed by the market administrator as follows: From the average of the highest prices reported daily during such month by the United States Department of Agriculture for the U. S. Grade A or U. S. 92-score butter at wholesale in the New York market, deduct four cents, add 20 percent, and multiply by 3.5."

3. Amend § 927.5 (a) (11) by changing the last proviso therein to read: "*Provided*, That in no event shall the Class III price be lower than a price computed by the market administrator as follows: From the average of the highest prices reported daily during such month by the United States Department of Agriculture for U. S. Grade A or U. S. 92-score butter at wholesale in the New York market, deduct four cents, add 20 percent, multiply by 3.5, and add 91.25 percent of the Class V–B price for such month."

4. Amend § 927.5 (a) (12) by changing the proviso therein to read: "*Provided*, That in no event shall the Class IV–A price during the months of October, November and December be less than the Class II–E price."

5. Amend § 927.5 (a) (13) by changing the last proviso therein to read: "*Provided further*, That in no event shall the IV–B price during the months of October, November and December be less than the Class III price."

6. Amend § 927.5 (c) (2) by changing the proviso therein to read: "*Provided*, That in no case shall the amount subtracted reduce the Class II–D price at any plant below an amount computed by the market administrator as follows: From the average of the highest prices reported daily during such months by the United States Department of Agriculture for U. S. Grade A or U. S. 92-score butter at wholesale in the New York market, deduct four cents, add 20 percent, and multiply by 3.5."

7. Amend § 927.5 (c) (3) to read:

(3) The market administrator shall, from time to time, determine and publicly announce for each pool plant a zone based on its shortest highway mileage distance from the State House in Boston, Massachusetts, as computed from the latest mileage guide issued by the Household Goods Carriers' Bureau, Agent, Washington, D. C. The minimum prices for Class II–E, Class II–F, and during the months of October, November and December, Class IV–A milk shall be subject to the minus differential set forth in the following table applicable to the location of the plant at which milk was received from producers:

Miles:	*Cents*	Miles:	*Cents*
0–250	5.2	351–400	8.2
251–300	6.2	401–450	9.2
301–350	7.2		

Provided, That in no case shall the amount subtracted reduce the Class II–E, the Class II–F, or, during the months of October, November and December, the Class IV–A price at any plant below an amount computed by the market administrator as follows: From the average of the highest prices reported daily during such months by the United States Department of Agriculture for U. S. Grade A or U. S. 92-score butter at wholesale in the New York market, deduct four cents, add 20 percent, and multiply by 3.5.

8. Amend § 927.9 (h) (1) and (2) (ii) and (iv) to read:

(1) Payment shall be made by handlers to producers, through the producer-settlement fund, for milk, cultured or flavored milk drinks, cream, plain condensed milk, frozen desserts or homogenized mixtures used commercially in frozen desserts, or skim milk, which milk and milk product meets each of the following provisions: (i) It was derived from milk received at some plant from dairy farmers (other than the handler operating such plant) who are not producers; (ii) it was received at a plant in, or delivered to a purchaser in the marketing area, or was received at a pool plant outside the marketing area and assigned either to shipments to the marketing area of milk, cultured or flavored milk drinks, cream, plain condensed milk, frozen desserts or homogenized mixtures used commercially in frozen desserts, or skim milk, or to plant loss; and (iii) the milk or milk equivalent of the butterfat is classified as Class I–A, Class II–A, or Class II–D, or the skim milk is classified as Class V–A.

(2) * * *

(ii) If the milk or milk product is derived from milk the handling of which is not regulated by another order issued pursuant to the act, the amount of payment shall be as follows: For milk, or for cultured or flavored milk drinks containing 3.0 percent butterfat or more, the difference between the value of such milk or cultured or flavored milk drinks at the Class I–A price in the 201–210 mile zone and the value computed at the Class IV–A and Class V–B prices; except as provided in subdivision (iv) of this subparagraph, for cream, plain condensed milk, frozen desserts or homogenized mixtures used commercially in frozen desserts, or for cultured or flavored milk drinks containing less than 3.0 percent butterfat, the difference between the value of the milk equivalent of such cream, plain condensed milk, frozen desserts or homogenized mixtures used commercially in frozen desserts, or milk drinks at the appropriate class (II–A or II–B) price in the 201–210 mile zone and at the Class IV–A price (milk equivalent in each case to be computed on the basis of milk containing 3.5 percent butterfat); and for skim milk (either as skim milk or in cultured or flavored milk drinks), the difference between the value computed at the Class V–A price in the 201–210 mile zone and the Class V–B price.

* * * * *

(iv) If the market administrator finds that there is an inadequate supply of cream, plain condensed milk or frozen desserts or homogenized mixtures used commercially in frozen desserts in the marketing area and that such products are available from nonpool sources, he may declare an emergency for a period ending not more than three months from the date of such declaration, in which case the payment during the period of such declared emergency shall be the difference between the value of the milk equivalent of such cream, plain condensed milk or frozen desserts or homogenized mixtures used commercially in frozen desserts at the appropriate class (II–A or II–B) price in the 201–210 mile zone and at the Class II–E price in the 0–250 mile zone from Boston.

Filed at Washington, D. C., this 5th day of November 1947.

[SEAL] S. R. NEWELL,
Acting Assistant Administrator.

[F. R. Doc. 47–9981; Filed, Nov. 7, 1947; 8:53 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR, Part 63]

[Docket No. 8581]

TEMPORARY OR EMERGENCY SERVICE

NOTICE OF PROPOSED RULE MAKING

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The proposed amendment of § 63.04 of the rules and regulations is set forth below and provides, substantially, for the following:

(a) A procedure whereby carriers may obtain continuing authority to provide emergency or temporary service under the second proviso clause of section 214 of the Communications Act of 1934, as amended, by the lease and operation of communication facilities of other companies.

(b) Addition of definitions of "temporary service" and "emergency service."

3. This proposed amendment is issued under the authority of sections 4 (i) and 214 (a) of the Communications Act of 1934, as amended.

4. Any interested person who is of the opinion that the proposed amendment to the rules and regulations should not be adopted or should not be adopted in the form set forth may file with the Commission on or before December 1, 1947, a written statement or brief setting forth his comments. The Commission will consider these written comments before taking any action on the proposed rules, and if any comments are submitted which appear to warrant the holding of an oral argument, notice of the time and place of such oral argument will be given.

5. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: October 30, 1947.

Released: November 3, 1947.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

Proposed amendment of § 63.04 of Part 63 (Extension of Lines and Discontinuance of Service by Carriers) of the Commission's rules and regulations.

1. Reletter existing paragraph (a) as paragraph (b) and, as relettered, amend said paragraph to read as follows:

(b) Requests for immediate authority for temporary service or for emergency service, may be made by letter or telegram setting forth why such immediate authority is required, the nature of the emergency, the type of facilities proposed to be used, the route mileage thereof, the termini, the points to be served, how these points are presently being served by the applicant or other carriers, the need for the proposed service, the cost involved, including rentals, the date on which the service is to begin and, where known, the date or approximate date on which the service is to terminate.

2. Add a new paragraph (a) as follows:

(a) For the purpose of this section, the following definitions shall apply:

(1) "Temporary service" shall mean service for a period not exceeding six months;

(2) "Emergency service" shall mean service for which there is an immediate need occasioned by conditions unforeseen by, and beyond the control of, the carrier.

3. Reletter existing paragraph (b) as paragraph (d) and add a new paragraph (c) as follows:

(c) Without regard to the other requirements of this part, and by application setting forth the need therefor, any carrier may request continuing authority, subject to termination by the Commission at any time and without notice, to provide temporary or emergency service by the lease and operation of telephone or telegraph facilities of other companies where the rental to be paid under each such lease is not more than $5,000, on an annual basis: *Provided, however*, That any carrier to which continuing authority has been granted under this subsection shall, not later than the 30th day following the end of each six month period covered by such authority, file with the Commission a statement in writing making reference to this subsection and setting forth, with respect to each lease entered into under such authority, the following information: The name of the lessor company, the nature of the emergency or other need for the leased facilities, the type of facilities leased, the route mileage thereof, the termini, the points served, how these points were being served by the applicant or other carriers prior to said lease, the cost involved including rentals, and the dates of commencement and termination of the lease.

[F. R. Doc. 47–9958; Filed, Nov. 7, 1947; 8:49 a. m.]

NOTICES

TREASURY DEPARTMENT

United States Coast Guard

[CGFR 47-38]

APPROVAL AND TERMINATION OF APPROVAL OF EQUIPMENT

CORRECTION OF PRIOR DOCUMENT

By virtue of the authority vested in me by R. S. 4405 and 4491, as amended (46 U. S. C. 375 and 489), and section 101, Reorganization Plan No. 3 of 1946 (11 F. R. 7875), the following corrections shall be made in Coast Guard Document CGFR 47-38, Federal Register Document 47-7188, filed July 30, 1947, and published in the FEDERAL REGISTER dated July 31, 1947, 12 F. R. 5185, et seq.:

1. Under "Cleaning processes for life preservers," 12 F. R. 5187, the approval No. "160/006/6/0" should be "160.006/6/0."

2. Under "Buoyant cushions, standard," 12 F. R. 5187, 5188, in the approval Nos. 160.007/30/0, 160.007/34/0, 160.007/46/0, and 160.007/52/0, the phrase "manufactured by" should be deleted and the word "for" inserted instead, and after the address add the following phrase: "and manufactured by The American Pad & Textile Co., Greenfield, Ohio."

3. Under "Buoyant cushions, nonstandards", 12 F. R. 5193, 5196, in approval No. 160.008/172/0 the dimension "16'" should be "18'"; in approval No. 160.008/186/0 the former approval No. "B-186" should be "B-377"; and in approval No. 160.008/292/0 the phrase "manufactured by" should be deleted and the word "for" inserted instead, and after the address add the following phrase: "and manufactured by The American Pad & Textile Co., Greenfield, Ohio."

4. Under "Buoys, life, ring, cork and balsa wood", 12 F. R. 5197, in approval No. 160.009/14/0 the phrase "30-inch cork ring life buoy" should be "24-inch balsa wood ring life buoy."

5. Under "Buoyant apparatus", 12 F. R. 5197, the approval No. "160.010/2" should be "160.010/2/0"; and approval No. 160.010/3/0 should read: "Approval No. 160.010/3/0, Buoyant apparatus, pine decking with copper tanks, 20-person capacity, Dwg. No. G-305-S, dated 2 January 1947, C. C. Galbraith & Son, 99 Park Place, New York, N. Y."

6. Under "Gas masks and other breathing apparatus", 12 F. R. 5198, approval No. "160.019/21/0" should be "160.011/21/0".

7. Under "Water lights (self-igniting calcium carbide type)", 12 F. R. 5199, approval No. 160.012/3/0, the company address should be "900 N. Iris Ave., Baltimore 5, Md."

8. Under "Compasses, lifeboat", 12 F. R. 5199, approval Nos. 160.014/5/0 and 160.014/6/0, the assembly Dwg. No. "G-112-7" should be "C-113-7".

9. Under "Ladders, embarkation-debarkation", 12 F. R. 5201, the approval Nos. 160.017/4/0 and 160.017/5/0 should read:

Approval No. 160.017/4/0, Model 241A embarkation-debarkation ladder, chain suspension, galvanized steel ears, Dwg. No. 241-A, dated 1 April 1947, manufactured by Great Bend Manufacturing Corp., 151 E. 50th Street, New York 22, N. Y.

Approval No. 160.017/5/0, Model 241B embarkation-debarkation ladder, chain suspension, aluminum ears, Dwg. No. 241-B, dated 1 April 1947, manufactured by Great Bend Manufacturing Corp., 151 E. 50th Street, New York 22, N. Y.

10. Under "Mirrors, emergency signaling", 12 F. R. 5201, approval No. 160.020/2/0, the company address should be "116 Broad Street, New York 4, N. Y."

11. Under "Davits, lifeboat", 12 F. R. 5203, in approval No. 160.032/6/0 the word "Stewart" should be "Steward"; in approval No. 160.032/49/0 the type number "135-5" should be "135-S"; and in approval No. 160.032/54/0 the revised drawing date should be "1 July 1942".

12. Under "Lifeboats", 12 F. R. 5207, 5208, 5210, 5211, in approval No. 160.035/2/0, the phrase "12-person" should be "18-person"; in approval No. 160.035/4/0 the dimension "27.0'" should be "22.0'"; in approval No. 160.035/18/0 the phrase "24-person" should be "25-person"; in approval Nos. 160.035/31/0 and 136.035/32/0 the phrase "car-propelled" should be "oar-propelled"; in approval No. 160.035/93/0 the phrase "20.0' x 6.5' x 2.5' steel" should be "20.0' x 6.6' x 2.6' steel"; in approval No. 160.035/108/0 the phrase "59-person" should be "54-person"; in approval No. 160.035/143/0 the dimension "3.75'" should be "3.73'"; and the following approval which was omitted should be added: "Approval No. 160.035/172/0, 30.67' x 10.17' x 4.25' steel motor-propelled lifeboat with radio cabin, 60-person capacity, identified by construction and arrangement Dwg. No. 2276-7, dated 6 November 1942 and revised 15 January 1943, manufactured by Welin Davit and Boat Division of the Robinson Foundation, Perth Amboy, N. J."

13. Under "Sound powered telephone equipment", 12 F. R. 5212, the second approval No. "161.005/5/0" should be "161.005/6/0".

14. Under "Boilers, power", 12 F. R. 5221, 5222, in approval No. 162.002/37/0, the boiler size should be "90" x 17'9½" boiler"; and in approval No. 162.002/38/0, the following phrase should be deleted: "similar to Dwg. No. 32-5443 dated 28 December 1943, 90" x 17' x 9½" boiler"; and in approval No. 162.002/73/0, the name "Wiches" should be "Wickes" in the trade name and company name.

15. Under "Boilers, heating", 12 F. R. 5223, the "approval No. 162.002/18/0" is under the wrong heading and should be transferred to "Boilers, power", and should read: "Approval No. 162.002/77/0, Foster Wheeler auxiliary water tube boiler, 2-drum bent tube package unit type D, similar to Dwg. No. PD-440-45A, dated 11 October 1944; material, design, and construction in conformance with U. S. Coast Guard Marine Engineering Regulations and Material Specifications, Parts 51, 52, and 56; approved for type design only; manufactured by the Foster Wheeler Corp., 165 Broadway, New York 6, N. Y."

16. Under "Boilers, heating", 12 F. R. 5223, 5224, in approval Nos. 162.003/23/0, 162.003/24/0, and 162.003/25/0, the descriptions should be corrected so that the approvals are as follows:

Pacific low pressure heating boiler, horizontal fire tube, 3" tubes, oval shell, welded steel plate, maximum working pressure 30 p. s. i., manufactured by U. S. Radiator Corporation, Pacific Steel Boiler Division, 300 Buhl Building, Detroit 31, Michigan, for the following models:

Approval No.	Model No.	Drawing No.
162.003/23/0	29 M 2	266.091
162.003/24/0	29 M 3	266.091
162.003/25/0	29 M 4	266.091
162.003/37/0	33 M 1	264.091
162.003/38/0	33 M 2	264.091
162.003/39/0	33 M 3	264.091
162.003/40/0	33 M 4	264.091
162.003/41/0	40 M 1	265.091

17. Under "Fire extinguishers, hand, portable, carbon-tetrachloride type", in approval No. 162.004/15/0, the Dwg. No. "3127" should be "2137"; and in approval Nos. 162.004/43/0 and 162.004/44/0, the company name should be "Wil-X-M'F'G' Corp."

18. Under "Fire extinguishers, hand, portable, carbon-dioxide type", 12 F. R. 5226, in approval No. 162.005/5/0, the Dwg. No. "O-53690" should be "D-53690".

19. Under "Fire extinguishers, hand, portable, foam type", 12 F. R. 5226, in approval No. 162.006/1/0, the Dwg. No. "4X-1036, Alt. 6" should be "4X-1036, Alt. L".

20. Under "Fire extinguishers, hand, portable, soda-acid type", 12 F. R. 5227, in approval No. 162.007/12/0 the distributor's name should be "M. F. Murdock Co."

21. Under "Backfire flame arresters for carburetors", 12 F. R. 5228, in approval No. 162.015/8/0, the date of the drawing should be "8 December 1939".

22. Under "Pressure vacuum relief valves", 12 F. R. 5231, in approval No. 162.017/25/0, the figure number should be "ST-4165"; and in approval No. 162.017/31/0, the phrase "vacuum pallet values" should be "vacuum pallet valves".

23. Under "Liquefied petroleum gas valves, fittings, and gauges", 12 F. R. 5233, in approval No. 162.018/4/0, the drawing description should be changed to "Dwg. No. 31-11-868 C, dated 12 June 1946, Rev. C, dated 23 June 1947", and the figure "1.5764" should be changed to "1.563".

24. Under "Secondary boiler water feed water indicator", 12 F. R. 5234, the approval No. 162.025/1/0, covered several models which should have been

given individual approval numbers and should, therefore, be changed to: "Reliance Eye-Hye secondary boiler water gauge, remote boiler water level indicator, 'U' tube differential pressure gauge connected to primary water column gauge, manufactured by The Reliance Gauge Column Company, 5902 Carnegie Avenue, Cleveland, Ohio, for the following models:

Approval No.	Model	Rating p. s. i.	Drawing No.
162.025/1/0	E-16	1,500	C-4522-6
162.025/7/0	E-20	125	B-5617-2
162.025/8/0	E-21	125	B-5666-1
162.025/9/0	E-32	400	B-6203-1
162.025/10/0	E-32A	400	B-6203-1
162.025/11/0	E-32B	400	B-6203-1
162.025/12/0	E-33	400	B-6204-1
162.025/13/0	E-33A	400	B-6204-1
162.025/14/0	E-33B	400	B-6204-1
162.025/15/0	E-32L	400	B-6208-1
162.025/16/0	E-32LA	400	B-6208-1
162.025/17/0	E-32LB	400	B-6208-1
162.025/18/0	E-32LC	400	B-6208-1
162.025/19/0	E-33L	400	B-6207-1
162.025/20/0	E-33LA	400	B-6207-1
162.025/21/0	E-33LB	400	B-6207-1
162.025/22/0	E-33LC	400	B-6207-1
162.025/23/0	E-30	900	B-6200-1
162.025/24/0	E-30A	900	B-6200-1
162.025/25/0	E-31	900	B-6202-1
162.025/26/0	E-31A	900	B-6202-1
162.025/27/0	E-14	1,500	B-5279-1

25. Under "Incombustible materials", 12 F. R. 5237, in approval No. 164.009/8/0 the word "Nateor" should be "Natcor."

Dated: November 3, 1947.

[SEAL] J. F. FARLEY,
Admiral, U. S. C. G.,
Commandant.

[F. R. Doc. 47-9957; Filed, Nov. 7, 1947; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Designation Order 15]

DESIGNATION OF MOTIONS COMMISSIONER FOR NOVEMBER 1947

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of October 1947;

It is ordered, Pursuant to § 1.111 of the Commission's rules and regulations, that Robert F. Jones, Commissioner, be and he is hereby designated as Motions Commissioner for the month of November 1947.

It is further ordered, That in the event said Motions Commissioner is unable to act during any part of said period the Acting Chairman will designate a substitute Motions Commissioner.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9960; Filed, Nov. 7, 1947; 8:49 a. m.]

[Docket No. 8044]

JOHN J. DEMPSEY

ORDER CONTINUING HEARING

The Commission having under consideration a petition filed October 16, 1947, by Albuquerque Broadcasting Company (KOB), Albuquerque, New Mexico, requesting a three-month continuance of the hearing in the above-entitled matter, which is presently scheduled to be held at Albuquerque, New Mexico, on November 24, 1947:

It is ordered, This 24th day of October 1947, that the instant petition for continuance be, and it is hereby, granted; and that the said hearing on the above-entitled matter be, and it is hereby, continued to 10:00 a. m., Thursday, February 26, 1948, at Albuquerque, New Mexico.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9961; Filed, Nov. 7, 1947; 8:49 a. m.]

[Docket No. 8567]

FLINT BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Howard M. Loeb and Frederick S. Loeb, transferors, Flint, Michigan and Trebit Corporation, transferee, Detroit, Michigan, Docket No. 8567, File No. BTC-554; for consent to transfer control of Flint Broadcasting Company, Station WFDF, Flint, Michigan.

At a session of the Federal Communications Commission, held in its offices in Washington, D. C., on the 16th day of October 1947;

The Commission having under consideration the above-entitled application requesting consent to the transfer of control of Flint Broadcasting Company, WFDF;

It is ordered, That pursuant to section 310 (b) of the Communications Act of 1934, as amended, the said application be, and it is hereby, designated for hearing at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the legal, technical, financial and other qualifications of the transferee including the parties in interest therein to receive a transfer of the license for WFDF.

2. To obtain full information as to arrangements between the parties with reference to purchase of the station involved including the value of the properties to be conveyed and the price to be paid therefor, and whether approval of these arrangements would be in the public interest.

3. To obtain full information with respect to the arrangements with Smith-Davis and Company, including services to be rendered and fees to be paid to said company.

4. To obtain full information as to how the station would be programmed, the staff which would be employed and policy which would be followed if the application is granted.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9962; Filed, Nov. 7, 1947; 8:50 a. m.]

[Docket No. 6741]

CLEAR CHANNEL BROADCASTING IN STANDARD BROADCAST BAND

ORDER SCHEDULING ORAL ARGUMENT

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th of October 1947.

The Commission having under consideration the procedure to be followed in the above-entitled cause upon conclusion of the hearing,

It is ordered, That before a decision is rendered all parties be given an opportunity to appear and present oral argument before the Commission en banc beginning at 10:00 a. m., on January 19, 1948.

It is further ordered, That any person desiring to participate in the oral argument must file with the Commission a brief on or before January 5, 1948.

It is further ordered, That upon conclusion of the oral argument the Commission will issue a final decision in lieu of a proposed decision.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9963; Filed, Nov. 7, 1947; 8:50 a. m.]

[Docket No. 8582]

WESTERN UNION TELEGRAPH CO.

ORDER SCHEDULING HEARING

In the matter of The Western Union Telegraph Company, Docket No. 8582; new charges for Foreign Contract Press Service.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 24th day of October 1947;

It appearing, that on September 17, 1947, The Western Union Telegraph Company filed revised tariff schedules with the Commission, effective November 1, 1947, providing for reduced charges for "Foreign Contract Press Service" between New York, N. Y. and London, England, said tariff schedules being designated as follows:

The Western Union Telegraph Company

Tariff F. C. C. No. 220.
Fourth Revised Page No. 3.

It further appearing, that, in possible contravention of the provisions of sections 201 and 202 of the Communications Act of 1934, as amended, said tariff schedules may result in an unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities or services for or in connection with like communication service, and may result in an undue or unreasonable preference or advantage to a particular person or class of persons; that said tariff schedules may be otherwise unlawful under the provisions of the Communications Act; and that the rights and interests of the public may otherwise be injuriously affected thereby; and it being the opinion of the Commission that the effective date

of the above-cited revised tariff schedules should be postponed pending hearing and decision concerning the lawfulness of such tariff schedules;

It is ordered, That, pursuant to sections 204 and 205 of the Communications Act of 1934, as amended, the Commission, upon its own motion and without formal pleading, shall enter upon a hearing concerning the lawfulness of the above-cited tariff schedules;

It is further ordered, That, pursuant to section 204 of the Communications Act of 1934, as amended, the operation of the above-cited tariff schedules is suspended until February 1, 1947, unless otherwise ordered by the Commission; and that during said period of suspension, no changes shall be made in such tariff schedules or in the tariff schedules sought to be altered thereby, unless authorized by special permission of the Commission.

It is further ordered, That, pursuant to sections 204, 205 and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the charges, classifications, regulations, practices and services of The Western Union Telegraph Company for and in connection with Foreign Contract Press Service between New York, N. Y., and London, England;

It is further ordered, That, without in any way limiting the scope of the investigation, it shall include inquiry into the following specific matters:

(1) The basis upon which the revised tariff schedules herein suspended were determined, and the justification of The Western Union Telegraph Company for such revised tariff schedules;

(2) The justness and reasonableness of the relationship between the revised tariff schedules herein suspended and those applicable to Ordinary Press Service between New York, N. Y., and London, England;

(3) The justness and reasonableness of the revised tariff schedules herein suspended as applicable to users of "Foreign Contract Press Service" having different volume requirements.

It is further ordered, That a copy of this order be filed in the offices of the Commission with said revised tariff schedules herein suspended; that The Western Union Telegraph Company is made a party respondent to this proceeding; and that a copy hereof be served thereon;

It is further ordered, That this proceeding is assigned for hearing on the 17th day of November 1947, beginning at 10:00 a. m., at the offices of the Federal Communications Commission in Washington, D. C.

Notice is hereby given that § 1.857 of the Commission's rules and regulations is not applicable to this proceeding.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9964; Filed, Nov. 7, 1947; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Project No. 1980]

WISCONSIN MICHIGAN POWER CO.

NOTICE OF APPLICATION OF LICENSE

NOVEMBER 4, 1947.

Public notice is hereby given, pursuant to the provisions of the Federal Power Act (16 U. S. C. 791–825r), that the Wisconsin Michigan Power Company, of Appleton, Wisconsin, has filed application for license for proposed Project No. 1980 on the Menominee River, a navigable water of the United States, in Dickinson County, Michigan, and in Marinette and Florence Counties, Wisconsin, consisting of a concrete gravity-type dam at Big Quinnesec Falls with over-all length of about 640 feet and about 72 feet high, a short distance below the applicant's existing dam, which it would replace; a reservoir with area of about 260 acres at elevation 170 feet (W. R. C. datum); conduits approximately 300 feet long to the proposed powerhouse; a powerhouse downstream from the dam with initial installation of 22,000 horsepower and ultimate installation of 33,000 horsepower operating under a gross head of 92 feet; a substation; certain transmission-line facilities; and appurtenant works. Control gates would be installed in the dam in order to supply water to an existing power plant at the falls, which the applicant plans to continue in operation.

Any protest against the approval of this application or request for hearing thereon, with the reason for such protest or request and the name and address of the party or parties so protesting or requesting should be submitted before December 13, 1947 to the Federal Power Commission, Washington 25, D. C.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-9941; Filed, Nov. 7, 1947; 8:53 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 30-215, 30-216]

MIDLAND REALIZATION CO. AND MIDLAND UTILITIES CO.

NOTICE OF FILING OF APPLICATIONS

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 4th day of November 1947.

Notice is hereby given that applications have been filed with this Commission, pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935, by Midland Realization Company, a registered holding company, and its subsidiary, Midland Utilities Company, also a registered holding company, for an order under said act, finding that each company has ceased to be a holding company.

Notice is further given that any interested person may, not later than December 1, 1947, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matters, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said applications which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. At any time thereafter, such applications, as filed or as amended, may be granted.

All interested persons are referred to said applications which are on file in the office of this Commission for a complete statement of the matters contained in such applications, which may be summarized as follows:

On or about March 29, 1946, Midland Realization Company and its subsidiary company, Midland Utilities Company, each filed a notice of registration under section 5 (a) of the act. At that time the only subsidiary of Midland Realization Company was Midland Utilities Company. At the same date, the only public utility subsidiary companies of Midland Utilities Company were (a) Northern Indiana Public Service Company; and (b) Indiana Service Corporation. On August 26, 1946, Midland Utilities Company distributed 2,154,395 shares of the common stock of Northern Indiana Public Service Company and retained 54,395 shares of such common stock. By virtue of such distribution, Midland Realization Company obtained 1,260,000 shares of such common stock, and simultaneously therewith, distributed to its shareholders 1,082,737¼ shares and retained 177,262¾ shares of such stock. On March 17, 1947, each of the applicants respectively sold all the shares of common stock of Northern Indiana Public Service Company then owned by them.

On June 30, 1947, Midland Utilities Company sold all of its shares of the reclassified capital stock of Indiana Service Corporation. As a result, Midland Utilities Company has no further interest of any kind or character in Indiana Service Corporation.

Accordingly, applicants request that the Commission find and declare by order that Midland Realization Company has ceased to be a holding company and that Midland Utilities Company has also ceased to be a holding company in all respects, except that it shall continue to be a registered holding company solely for the purpose of filing an amendment to the plan of corporate simplification for Indiana Service Corporation, File No. 54-137, if it should desire or be required to do so.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-9946; Filed, Nov. 7, 1947; 8:54 a. m.]

[File No. 54-146]

PORTLAND GAS & COKE CO.

NOTICE OF FILING OF AMENDED PLAN AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 31st day of October A. D. 1947.

On July 29, 1947, Portland Gas & Coke Company ("Portland"), a gas utility company, and its parent, American Power & Light Company ("American"), a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company, filed a joint application with this Commission pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 for approval of a plan having for its stated purpose compliance with section 11 (b) of the act through (a) the simplification of the capital structure of Portland by converting it into a company whose capital structure will consist only of common stock and debt; and (b) accomplishing the fair and equitable distribution of voting power among the security holders of Portland in conformity with the provisions of the act.

On August 22, 1947, the Commission issued its Notice of Filing and Order for Hearing (Holding Company Act Release No. 7665) summarizing the principal provisions of said joint application and plan and ordering a hearing thereon. The joint plan, filed July 29, 1947, provided for the surrender by American to Portland for cancellation and in exchange for each share of Portland's 7% preferred stock and 6% preferred stock such number of shares of Portland's common stock, all of which is presently owned by American (with the exception of 11 directors' qualifying shares), as was to be specified by a subsequent amendment to the plan. In the Commission's notice of filing and order for hearing of August 22, 1947, the procedure to be followed in considering the plan was outlined as follows:

(a) At the first hearing, pursuant to the Commission's Notice of and Order for Hearing herein, American and Portland propose to introduce in evidence written testimony which will constitute substantially all of the basic data upon which American's and Portland's Boards of Directors will propose ratios of exchange of the common stock of Portland held by American for the preferred stocks of Portland.

(b) The plan will then be amended and American and Portland will insert in such amended plan the number of shares of common stock of Portland to be issued in exchange for each share of 7% preferred stock and each share of 6% preferred stock of Portland. Portland at that time will send to each of its security holders, whose address is known to it, a copy of such amended plan together with such further notice with respect to the final hearing on the amended plan as the Commission may prescribe.

In accordance with the Commission's order of August 22, 1947 and the procedure provided for therein, hearings have been held from time to time upon said joint application and plan.

Notice is hereby given that on October 29, 1947, Portland, in accordance with the above-described procedure, without joinder by American, filed an application for approval of an Amended Plan which sets forth certain proposed ratios of exchange of the common stock of Portland owned by American for Portland's preferred stocks.

All interested persons are referred to said Amended Plan which is on file in the offices of the Commission for a complete statement of the transactions proposed therein which may be summarized as follows:

1. American will transfer and deliver or cause to be transferred and delivered to the holders of Portland's 7% preferred stock three (3) shares of the presently outstanding common stock of Portland owned by American in exchange for each one share of said 7% preferred stock.

2. American will transfer and deliver or cause to be transferred and delivered to the holders of Portland's 6% preferred stock two and seven-tenths (2⁷⁄₁₀) shares of presently outstanding common stock of Portland owned by American in exchange for each one share of said 6% preferred stock.

3. In order to avoid the transfer and delivery of fractional shares, American will also transfer and deliver or cause to be transferred and delivered a sufficient number of shares of common stock owned by it to make a full share allotment, to the next highest whole number, to each holder of record of the 6% preferred stock at the close of business on the effective date of the Amended Plan. For the purposes of the foregoing provision, the total number of shares of 6% preferred stock owned by each stockholder of record, whether held in one or more names, shall be used in determining the number of full shares to which such holder shall be entitled. As to any transfers of record made after the effective date of the Amended Plan, the transferee or transferees shall be entitled to receive not in excess of the number of full shares which would have been deliverable on the basis of the record at the effective date. Neither Portland nor American shall be required to transfer or deliver any fractional shares or fractional rights.

4. American will retain, after the transfers and deliveries set forth in 1, 2, and 3 above, 53,848 shares of the presently outstanding common stock of Portland, and will surrender to Portland for cancellation the remainder of all presently outstanding shares of common stock.

5. American will surrender to Portland for cancellation the 7% and 6% preferred shares received by it as set forth in 1 and 2 above.

6. Summary, the Amended Plan, if consummated, will eliminate all of Portland's preferred stocks, including arrearages, leaving the company with a simplified capital structure consisting only of debt and common stock.

7. The total number of shares of common stock to be received by the holders of the 7% preferred stock, pursuant to 1 above, is 161,955 shares; the total number of shares of common stock to be received by the holders of the 6% preferred stock, pursuant to 2 above, is 23,522⁷⁄₁₀ shares plus the number of shares to be transferred and delivered to make full share allotments (such number is not determinable until the effective date of the Amended Plan but is estimated to be about ⁷⁄₁₀th of one per cent of all the common stock to be outstanding after consummation of the Amended Plan.)

8. Upon (a) the delivery and exchange of shares, as stated in 1 and 2 above, and (b) the surrender to Portland of shares of the presently outstanding common stock by American, as stated in 4 above, the holders of the presently outstanding preferred stocks will hold approximately 77½% of the shares of common stock to be outstanding, and American will hold approximately, but not in excess of, 22½% of said shares to be outstanding.

9. The recapitalization of Portland will be based upon the balance sheet as of July 31, 1947 and all accounting entries respecting the consummation of the Amended Plan will be made as of July 31, 1947 upon the Amended Plan's becoming effective. Any dividends declared and paid by Portland on the presently outstanding preferred stocks after July 31, 1947 and prior to the effective date of the Amended Plan will be charged to earned surplus accumulated after July 31, 1947.

10. The Commission is requested in the event it approves the plan to apply to an appropriate District Court of the United States for its enforcement. The effective date of the Amended Plan will be the date of the order or decree of such court enforcing and carrying out the terms of the Amended Plan and the Amended Plan upon becoming effective will be binding upon all persons affected by the plan including all of Portland's presently outstanding preferred and common stocks.

11. Distribution by American of certificates for the common stock of Portland to the holders of Portland's present preferred stocks will be made simultaneously with the surrender to American of such preferred stocks and such distribution will be made as soon as practicable after the effective date of the amended plan.

12. Dividends which may be declared on the common stock will not be paid to any holder of the present preferred stock until his certificate or certificates for such stock shall have been surrendered for certificates of shares of common stock.

13. Portland reserves the right to alter, amend, or abandon any of the steps provided for consummation of the Amended Plan upon ten days' notice to the Commission if the Commission within such ten day period shall not have notified Portland that it deems any such alteration, amendment, or abandonment a material alteration of the Amended Plan.

Portland requests that any order of the Commission approving the Amended Plan recite that the relevant transactions of the Amended Plan are necessary or appropriate to the integration or simplification of the holding company system of which Portland and American are members and are necessary or appropriate to effectuate the provisions of

section 11 (b) of the act within the meaning and requirements of the Internal Revenue Code, as amended, including section 1808 (f) and Supplement R thereto.

In the Amended Plan it is recited that Portland is informed by American that American approves and consents to all the provisions of the Amended Plan except the proposed number of shares of common stock of Portland to be retained by American upon consummation of the Amended Plan and the percentage of the total outstanding common stock to be represented by such number of shares, as set forth in paragraph 8 hereof; that, for said reason only, American is not joining in the Amended Plan, it being American's opinion that the number of shares of common stock of Portland to be held by American after consummation of the Amended Plan should be not less than 25% of the total shares of such common stock to remain outstanding.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that hearings be held with respect to said Amended Plan, and the transactions proposed therein, and that said Amended Plan should not be approved except pursuant to further order of the Commission:

It is ordered, That a hearing be held on November 20, 1947 at 10:00 a. m., e. s. t., at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. At such hearing consideration will be given to the Amended Plan herein, and the transactions proposed therein.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said act and to a Hearing Officer under the Commission's rules of practice.

It is further ordered, That, without limiting the scope of the issues otherwise to be considered in this proceeding, particular attention will be directed at the hearing to the following matters and questions:

(1) Whether the Amended Plan filed herein, or any plan hereafter proposed, as submitted or as hereafter modified, is necessary to effectuate the provisions of section 11 (b) of the act.

(2) Whether the Amended Plan filed herein, or any plan hereafter proposed, as submitted or as hereafter modified, is fair and equitable to the persons affected thereby.

(3) Whether the Amended Plan, as filed or as modified, makes appropriate provisions for the payment of expenses, fees and remuneration in connection therewith, in what amounts such expenses, fees and remuneration should be paid, and the fair and equitable allocation thereof.

(4) Whether the accounting entries in connection with the proposed transactions are in conformity with the standards of the act and rules promulgated thereunder.

(5) Generally, whether the proposed transactions are in all respects in the public interest and in the interest of investors and consumers and consistent with all applicable requirements of the act and the rules thereunder, and, if not, what modifications should be required to be made therein and what terms and conditions should be imposed to satisfy the applicable statutory standards.

(6) Whether the Commission, if it should disapprove the Amended Plan, as submitted or as modified, should enter an order for the purpose of effectuating compliance by Portland with the provisions of subsection (b) (2) of section 11 of the act and if so what terms and conditions such order should contain.

It is further ordered, That jurisdiction be reserved to separate either for hearing, in whole or in part, or for disposition, in whole or in part, any of the issues, questions or matters herein set forth or which may arise in these proceedings or to consolidate with these proceedings other filings or matters pertaining to the subject matter of these proceedings, and to take such other action as may appear conducive to an orderly, prompt and economical disposition of the matters involved.

It is further ordered, That the Secretary of the Commission shall serve, by registered mail, a copy of this order on the applicant herein, on American Power & Light Company and on the Public Utility Commissioner of the State of Oregon, and the Department of Public Utilities of the State of Washington; and that said notice of hearing be given to all other persons by publication of this order in the FEDERAL REGISTER. Any persons desiring to be heard in connection with these proceedings, or proposing to intervene herein, shall file with the Secretary of the Commission on or before November 18, 1947 his request or application therefor, as provided by Rule XVII of the rules of practice of the Commission.

It is further ordered, That Portland shall give notice of this hearing to all its security holders (insofar as the identity of such security holders is known or available to it) by mailing to each of said persons a copy of this notice and order for hearing at least 15 days prior to the date of the hearing herein ordered.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9948; Filed, Nov. 7, 1947; 8:55 a. m.]

[File No. 54-158]

UNITED CORP.

MEMORANDUM OPINION AND ORDER DENYING MOTION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 27th day of October A. D. 1947.

Simplification of Holding Company System

Practice and procedure; motion to stay proceedings. Motion by preferred stockholder of registered holding company to stay proceedings on section 11 (e) plan until affirmative vote of majority of preferred stockholders be obtained on question of whether holding company should ultimately become an investment company, held, denied, since it does not appear that company will take any substantial steps toward transforming its business into that of an investment company until preferred stock is retired pursuant to fair and equitable plan, and preferred stockholders would accordingly have no interest in whether holding company became investment company thereafter.

Practice and procedure; motion to notice stockholder's plan. Motion by stockholder who has filed plan pursuant to section 11 (d) that Commission formally notice his plan while proceedings on section 11 (e) plan filed by company are still pending, held, denied.

Appearances. Richard Joyce Smith and William C. Farley, of Whitman, Ransom, Coulson & Goetz, New York, New York, for The United Corporation.

George E. Munson and G. F. B. Appel, of Townsend, Elliott & Munson, Philadelphia, Pennsylvania, for various institutional holders of preference stock.

Seymour M. Heilbron, of Hays, St. John, Abramson & Schulman, New York, New York, for Norman Johnson, a preference stockholder and for preference stockholders' committee.

Ernest Mahler, of O'Brien, Driscoll, Raftery & Lawler, New York, New York, for Irving Schiff, a preference stockholder.

James F. X. O'Brien, for Louis E. O'Brien, a preference stockholder.

John F. Davis, of Hilmer & Davis, Washington, D. C., for Randolph Phillips, a common stockholder.

William R. Nowlin and Herbert D. Miller, for the Public Utilities Division of the Commission.

We have for disposition three motions filed in pending proceedings relating to a plan filed by The United Corporation ("United"), a registered holding company, pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935. United's plan provides in brief for the retirement of United's presently outstanding 1,136,199⅙ shares of $3 Cumulative Preference Stock by a distribution to the preferred stockholders of a package composed of a portion of United's portfolio securities plus cash.

I. *The motion to stay the hearings pending a vote of the preferred stockholders.* In our findings and opinion of August 14, 1943,[1] in which we ordered United to cease to be a holding company and to recapitalize on a one-stock basis, we pointed out that any program for carrying out United's stated intention of transforming itself into an investment company would not be fair if it "does not require majority approval either of the present preferred and common stock voting by classes, or of the new common stock, should United choose to recapitalize on a one-stock basis before seeking stockholder approval of the proposed new venture." On February 10, 1947, pursuant to a request of United that we "modify" the above statement to elimi-

[1] The United Corporation, 13 S. E. C. 854.

nate the requirement for a vote of the preferred stockholders, we issued a memorandum opinion in which we stated that, in view of United's representation that it hoped to complete the retirement of its preferred stock within twelve months and that such stock would be retired or provisions made for its retirement before any substantial change in operations was undertaken, United might appropriately limit the vote on its program to become an investment company to its common stockholders.[2] We expressly pointed out, however, that "there exists the possibility that conditions may materially change before United has ceased to be a public utility holding company" and that "Accordingly, nothing said herein should be construed as precluding us from requiring another vote of stockholders if, at or about that time, it appears to us that the situation has so materially changed that fairness requires that the stockholders be afforded a further opportunity to vote on the proposed program at that time."[3]

Norman Johnson, a United preferred stockholder, has moved that the hearings on the present plan to retire the outstanding preferred be stayed until a favorable vote be obtained from the preferred stockholders voting as a class on United's proposal to become an investment company. He contends that the "retirement" of the preferred stock referred to in our memorandum opinion of February 10, 1947, was a voluntary retirement similar to that by which United had retired approximately 54% of its preferred stock since August 14, 1943, and that United's "change over (to an investment company) is tied in with and conditioned upon an elimination of the preferred stock through a compulsory exchange for a mere portion of United's portfolio as outlined in the present plan." He argues that "before any plan is proceeded with * * * the preferred stockholders should have the right by vote to determine whether the change over to an investment company is acceptable to them under the conditions imposed or whether such conditions involve a degree of sacrifice in the light of which they would rather have the company not make the change over."

We find no support for the request embodied in this motion. There is nothing in our memorandum opinion of February 10, 1947, to support the suggestion that the retirement of United's remaining outstanding preferred stock therein referred to was, of necessity, to be a voluntary retirement. Not only is the language without any such qualification, but general practice in the formulation and carrying out of corporate simplification programs under Section 11 has clearly demonstrated that the utmost flexibility is needed and that the method of retiring senior securities, whether by voluntary or by compulsory plans, must be worked out to meet each particular situation as it develops and that no definite method can be predicted in advance. That United's preferred might be retired by either further voluntary exchanges or by some compulsory program, whether like the one now before us or by a cash payment or by some other method, must be deemed to have been obvious when we issued our memorandum opinion of February 10, 1947.

The plan now before us is one providing for the retirement of the remainder of United's outstanding preferred stock. As we have indicated, it has been represented to us that United does not intend to take any substantial steps in transforming its business from that of a holding company to that of an investment company until the preferred is retired or some provision is made for its retirement. Any plan for the retirement of the preferred can only be approved by us upon a finding that such plan is fair and equitable to all persons affected; it is obvious that if the pending plan is thus approved the preferred will then have no further interest in what future steps United may take in changing the nature of its business.

Johnson's contention is thus in essence nothing more than an argument directed to the fairness of the proposed plan. He contends that in view of the plan's purported unfairness the preferred stock as a class should now be given an opportunity to express its views on whether it favors the change over of United to an investment company. But any contentions as to the unfairness of the plan should be made on the merits at the conclusion of the proceedings now pending before us; when the plan ultimately comes before us for decision, the issue of fairness will, of course, be presented. And since, as already indicated, we cannot approve any plan for retirement of the preferred unless it affords the holders of that stock fair and equitable treatment, the taking of a vote by the preferred at this time and staying of hearings on the plan would not only serve no useful purpose but would, in addition, cause an unwaranted delay in the proceedings.

As we expressly pointed out in our memorandum opinion of February 10, 1947, the fact that United has already obtained an initial approval of its common stockholders for the change over does not preclude the possibility of requiring another such vote if, at the time that United finally ceases to be a holding company conditions have so changed that fairness requires such action. However, as already noted, it has been represented that before that situation is reached all of United's present preferred stockholders will have been retired and that they could therefore have no interest in what may later transpire. If this does not prove to be the fact, we would, of course, reconsider at the appropriate time the necessity for a vote of the preferred stockholders.

Nor can we agree with Johnson's assertion that the present plan "inherently is centered upon the change over of United Corporation to an investment company," except to the extent that elimination of United's preferred may be regarded as a condition precedent to any such change over. Apart from any such change over, however, the elimination of the preferred is required for compliance with our order directing United's recapitalization on a one-stock basis, and the particular plan now before us is merely the method which United has chosen to effect compliance with such order.

II. *Motions relating to stockholder plans.* A preferred stockholders' committee has filed a "plan" which is identical to that of United, except that it seeks to have the proposed exchange made on a voluntary instead of a compulsory basis.[4] Randolph Phillips, a common stockholder of United, has also filed a plan relating to the elimination of the outstanding preferred. The Committee requests that we fix a date for hearings on its plan, and Phillips has made a motion that we formally notice his plan for hearing. We think that we may appropriately dispose of both of these motions together.

Paragraph 5 of our original notice and order for hearing in this matter[5] stated that among the issues to be considered at the hearings on the plan would be "Whether and to what extent the plan and amendments thereto should be modified." Since we think the Committee's purported "plan" should appropriately be considered at this time, not as a "plan" per se, but merely as an expression of objections to and suggested modifications of the company's plan, we think it clear that the proposed modifications are matters which may properly be considered at the hearing under paragraph 5. Hearings on the plan have been going on for some time and are scheduled to reconvene on October 28. If the Committee requests and is granted leave to be heard in these proceedings pursuant to Rule XVII (b) of our rules of practice—and we see no reason why the hearing officer should not grant such leave to be heard—the Committee will have full opportunity to call and examine witnesses, offer evidence, participate generally in the proceedings, and develop the record on its suggested modifications.[6]

Phillips has moved that the Commission give his plan "the same type of notice as it gave the management's plan" in order that United's security holders may be advised of the details of his proposal. We do not think that such notice is either required or would be appropriate at this stage of the proceedings.

First, it should be noted that paragraph 6 of our original notice and order in these proceedings raised as an issue "Whether * * * a plan proposed

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[2] — S. E. C. —, Holding Company Act Release No. 7191.

[3] *Id.*, mimeo. pp. 3–4.

[4] It also seeks the elimination of the provision for court enforcement contained in United's plan.

[5] Holding Company Act Release No. 7496 (June 17, 1947).

[6] We note that Seymour M. Heilbron, who as counsel for Johnson was granted leave to be heard at the beginning of these procedings, is also counsel to the Committee and we assume that the additional participation of the Committee would in no substantial way delay the conclusion of the hearings. This would seem to be particularly true since the Committee's suggested modifications are directly related to the fairness of the terms of the exchange proposed in the United plan and the fairness of the exchange has, of course, always been a principal issue in the proceedings.

* * * by any person having a bona fide interest should, in accordance with the provisions of section 11 (d) of the act, be approved for the purpose of effectuating the order of the Commission dated August 14, 1943, and * * * what the terms and provisions of such plan should be." This order was mailed to all security holders and may be regarded as constituting adequate notice that plans might be filed under section 11 (d) and considered in the course of the proceedings.

Second, the formulation and carrying out of plans of corporate integration and simplification under section 11 require great flexibility both in the actual steps to be taken and the order in which such steps will be accomplished. The statutory procedure contained in section 11 indicates that the choice of the appropriate procedure to be followed lies in the first instance with the management, and we have followed that policy by allowing management wide latitude in developing its program for compliance with the requirements of section 11 (b).

In this case United has filed its plan under section 11 (e) to comply with section 11 (b) and our outstanding order. Hearings on this plan have been going on for some time, and are virtually completed. Since there has been nothing shown to indicate that United's plan is on its face so clearly lacking in merit as to warrant its summary rejection prior to completion of the hearings, we feel that it is appropriate that we have the full record on the plan presented to us before we rule on its merits. If, at that time, we should find that the company's plan does not meet the statutory standards, it might then be appropriate to give further consideration to Phillips' plan. We need not now decide whether or to what extent any additional notice of the Phillips plan might be required at that time. At this stage of the proceedings, however, we feel that detailed noticing of Phillips' plan would needlessly delay the pending proceedings and, depending on the outcome of such proceedings, might later prove to have been wholly unnecessary.

What we have said in this respect concerning Phillips' motion is, of course, equally applicable to the Committee's request to whatever extent it may be seeking formal noticing of its proposal as a "plan." *Accordingly it is ordered:*

1. That the motion of Norman Johnson that the hearings on United's section 11 (e) plan be stayed until a favorable majority vote of the preference stockholders voting as a class is obtained be and hereby is denied;

2. That the motion of the Preference Stockholders Committee that a date be fixed for hearings on the plan filed by such Committee be and hereby is denied;

3. That the motion of Randolph Phillips that the Commission formally notice for hearing the plan filed by him be and hereby is denied.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9944; Filed, Nov. 7, 1947; 8:54 a. m.]

[File No. 69-46]

WISCONSIN ELECTRIC POWER CO.

NOTICE OF TERMINATION OF EXEMPTION

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 4th day of November 1947.

Wisconsin Electric Power Company, a subsidiary of The North American Company, a registered holding company, having filed herein with this Commission a Statement on Form U-3A-2 in which the Wisconsin Electric Power Company claims on behalf of itself as a holding company and on behalf of its subsidiary companies as such, exemption from the provisions of the Public Utility Holding Company Act of 1935, pursuant to Rule U-2 of the general rules and regulations promulgated under said act; and

It appearing to the Commission upon the basis of such Statement and upon the basis of the information in the files of the Commission regarding Wisconsin Electric Power Company and each of its subsidiaries, that substantial questions exist as to (a) whether Wisconsin Electric Power Company comes within the exemption afforded by said rule, and (b) whether the continued exemption of Wisconsin Electric Power Company and its subsidiary companies as such, from any provision or provisions of said act may be detrimental to the public interest or the interest of investors or consumers;

Notice is hereby given, pursuant to Rule U-6 and Rule U-2 under said act, that such substantial questions do exist, and that any exemption which presently may be available to Wisconsin Electric Power Company and its subsidiary companies as such by reason of the provisions of Rule U-2, shall terminate within thirty days of this notice as provided in said Rule U-6 without prejudice, however, to the right of Wisconsin Electric Power Company to file any appropriate application for an order granting it any exemption pursuant to the provisions of any applicable section of the act, and without prejudice to any temporary exemption provided for by any provision of the act if such application is filed in good faith.

It is directed that notice hereof be given to Wisconsin Electric Power Company and its subsidiary companies, Wisconsin Gas and Electric Company, Wisconsin Michigan Power Company, and The Milwaukee Electric Railway & Transport Company by mailing a copy of this notice by registered mail to such companies; and that notice shall also be given to all other persons by publication of this notice in the FEDERAL REGISTER and in a general release of this Commission distributed to the press and mailed to the mailing list for releases under the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9943; Filed, Nov. 7, 1947; 8:54 a. m.]

[File No. 70-1641]

PORTLAND GENERAL ELECTRIC COMPANY

SUPPLEMENTAL ORDER RELEASING JURISDICTION AND PERMITTING APPLICATION OR DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 4th day of November A. D. 1947.

Portland General Electric Company, a registered holding company and a subsidiary company of Portland Electric Power Company, likewise a registered holding company, having filed an application or declaration and amendments thereto, pursuant to section 6 (a) and either section 6 (b) or 7 of the Public Utility Holding Company Act of 1935 and Rule U-50 promulgated thereunder, regarding the proposed issue and sale by Portland General Electric Company, pursuant to the competitive bidding requirements of Rule U-50, of $6,000,000 principal amount of additional First Mortgage Bonds, __% Series due 1977; and

The Commission by order dated October 27, 1947 having granted said amended application or permitted said amended declaration to become effective, except in respect to the price to be received by the company for said bonds, the interest rate thereon, the redemption prices thereof and the underwriters' spread and its allocation, as to which matters jurisdiction was reserved until the same should be known and included in the record of this proceeding, and a further order in connection therewith should have been issued; and

A further amendment to the application or declaration having been filed on November 4, 1947, setting forth the action taken by Portland General Electric Company to comply with the requirements of Rule U-50 and stating that, pursuant to the invitation for competitive bids, the following bids for the bonds have been received:

Bidder	Coupon rate	Price to company (percent of principal amount)	Cost to company (percent of principal amount)
	Percent		
Salomon Bros. & Hutzler	3½	102.081	3.388959
The First Boston Corp	3½	101.179	3.436714
Kidder, Peabody & Co	3½	101.0799	3.441994
Blyth & Co., Inc	3½	100.81	3.456414
Harriman, Ripley & Co., Inc	3½	100.71	3.461769
Halsey, Stuart & Co., Inc	3½	100.6599	3.464456

Said amendment having further set forth that Portland General Electric Company has accepted the bid of the group headed by Salomon Bros. & Hutzler, as set out above, and that such bonds will be offered for sale to the public at the initial price of 103% of the principal amount thereof, plus accrued interest from November 1, 1947 to the date of delivery, resulting in an underwriters' spread of .919% of the principal amount of said bonds; and

The Commission having examined said amendment and having considered the record herein and finding no basis for imposing terms and conditions with respect to the price to be received by the

company for said bonds, the interest rate thereon, the redemption price thereof, and the underwriters' spread and its allocation:

It is ordered, That the jurisdiction heretofore reserved with respect to the matters to be determined as the result of competitive bidding under Rule U-50 be, and hereby is, released, and that said application or declaration as further amended be, and it hereby is, granted or permitted to become effective forthwith, subject, however, to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9947; Filed, Nov. 7, 1947; 8:55 a. m.]

[File No. 70-1642]

SOUTHWESTERN GAS AND ELECTRIC CO.

NOTICE OF FILING AND NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 3d day of November A. D. 1947.

Notice is hereby given that a declaration and an amendment thereto have been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935, by Southwestern Gas and Electric Company ("Southwestern"), a subsidiary of Central and Southwest Corporation, a registered holding company. The declarant has designated sections 6 and 7 and Rule U-50 as applicable to the proposed transactions.

All interested persons are referred to said declaration, as amended, on file in the office of this Commission, for a statement of the transactions therein proposed which may be summarized as follows:

Declarant proposes to issue and sell, at competitive bidding, pursuant to Rule U-50, $7,000,000 in principal amount of its First Mortgage Bonds, Series B __%, to be dated September 1, 1947, to mature September 1, 1977, and to be issued under and secured by the Indenture of Mortgage of the declarant, dated February 1, 1940 and a proposed Supplemental Indenture to be dated September 1, 1947. Declarant states that the proceeds from the sale of the Series B Bonds will be used to finance, in part, the cost of carrying out a construction program estimated to require approximately $11,800,000 during the period from September 1, 1947 to March 31, 1949.

Declarant states that copies of applications to, and orders of, State commissions with respect to the Series B Bonds proposed to be issued will be supplied by amendment.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to the matters set forth in said declaration, as amended, and that said declaration, as amended, should not be permitted to become effective except pursuant to further order of this Commission:

It is ordered, That a hearing on said declaration, as amended, pursuant to the applicable provisions of the act and the rules and regulations thereunder be held on November 14, 1947, at 10:00 a. m., e. s. t., at the offices of this Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. On such date the hearing room clerk in Room 318 will advise as to the room in which such hearing shall be held.

It is further ordered, That Allen MacCullen, or any other officer or officers of this Commission designated by it for that purpose, shall preside at such hearing. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Public Utilities Division of the Commission having advised the Commission that it has made a preliminary examination of the declaration, as amended, and that, upon the basis thereof, the following matters and questions are presented for consideration, without prejudice to its specifiying additional matters and questions upon further examination:

1. Whether the Series B Bonds are reasonably adapted to the security structure of the declarant and other companies in the same holding company system, are reasonably adapted to the earning power of the declarant and otherwise meet the standards of section 7.

2. Whether the fees, commissions, or other remunerations to be paid in connection with the proposed transactions are for necessary services and are reasonable in amount.

3. Whether the accounting entries to be made in connection with the proposed transactions are proper and are in accordance with sound accounting principles.

4. Whether any terms and conditions are necessary with respect to the proposed issue and sale of Series B Bonds in order to assure compliance with the conditions specified in section 7 of the act.

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That any person desiring to be heard or otherwise wishing to participate in this proceeding shall file with the Secretary of the Commission, on or before November 13, 1947, a written request relative thereto as provided by Rule XVII of the Commission's rules of practice, stating the nature of his interest, which of the foregoing matters and questions he desires to controvert, and what additional matters and questions, if any, he deems are raised by the said declaration, as amended.

It is further ordered, That notice of said hearing be, and hereby is, given to Southwestern, and to all interested persons, said notice to be given to Southwestern Gas and Electric Company and to the Arkansas Public Service Commission by registered mail, and to all other persons by publication of this notice and order in the FEDERAL REGISTER and by general release of this Commission distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9945; Filed, Nov. 7, 1947; 8:54 a. m.]

[File No. 70-1657]

NORTH AMERICAN CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 3d day of November 1947.

Notice is hereby given that The North American Company ("North American"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("the Act"). North American designates sections 12 (c) and 12 (d) of the act and Rules U-23, U-44 and U-46 of the general rules and regulations promulgated thereunder as being applicable to the proposed transactions and North American further considers that Rule U-43 may be applicable thereto.

Notice is further given that any interested person may, not later than November 12, 1947 at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said declaration proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter, such declaration, as filed or as amended, may be granted or permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated pursuant to said act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania.

All interested persons are referred to said declaration, which is on file in the offices of this Commission, for a statement of the transactions therein proposed, which are summarized below:

North American proposes to distribute on December 22, 1947, in partial liquidation to its holders of common stock of record as of November 26, 1947, shares of the common stock of Wisconsin Electric Power Company ("Wisconsin Electric") having a par value of $10 per share, owned by North American, and shares of the common stock of Potomac Electric Power Company ("Potomac"), having a par value of $10 per share, owned by North American. The rate of distribution proposed is 19¼ shares of Wisconsin Electric common stock and 21 shares of Potomac common stock for each 100 shares of North American common stock held. No certificates will be issued for

fractions of shares of stock of Wisconsin Electric or of Potomac, but, in lieu thereof, cash will be paid (1) with respect to such numbers of shares as would be entitled to less than a full share of Wisconsin Electric at the rate of $19.75 per share of Wisconsin Electric, this rate being based on the approximate market price of such stock at the close of the market on October 23, 1947, such payment being equivalent to $3.801875 per share on shares of North American common stock not entitled to a full share of Wisconsin Electric, and (2) with respect to such number of shares as would be entitled to less than a full share of Potomac at the rate of $17 per share of Potomac, this rate being based on the approximate market price of such stock at the close of the market on October 23, 1947, such payment being equivalent to $3.57 per share on shares of North American common stock not entitled to a full share of Potomac. North American estimates that the transactions above mentioned will involve the distribution of approximately 1,624,787 shares of common stock of Wisconsin Electric and approximately $502,509.22 in cash in lieu of fractions of such stock and the distribution of approximately 1,784,305 shares of common stock of Potomac and approximately $271,089.82 in cash in lieu of fractions of such stock.

In connection with the said distributions, North American proposes to charge to Capital Surplus amounts aggregating the respective carrying values of the shares of Wisconsin Electric and Potomac common stocks to be distributed and the cash to be paid in lieu of fractional shares, together with the expenses of such distributions. North American estimates the carrying value of the shares of Wisconsin Electric common stock to be distributed at approximately $20,112,198.23, and the carrying value of the shares of Potomac common stock to be distributed at approximately $9,128,631.85. North American further proposes that sufficient Capital Surplus for such purpose will be provided by the restoration to Capital Surplus of the remaining balance in its Reserve for Contingencies originally provided from Capital Surplus and to the extent necessary by a transfer from Earned Surplus to Capital Surplus.

North American has requested that the Commission enter an order permitting said declaration to become effective on or before November 14, 1947, and that such order become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-9942; Filed, Nov. 7, 1947; 8:53 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Supplemental Vesting Order 9880]

ALBERT REICHEL

In re: Estate of Albert Reichel, deceased. File D-28-9878; E. T. sec. 13953.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Camilla Eckhardt, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

(a) All right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the Estate of Albert Reichel, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany);

That such property is in the process of administration by Clara Simerville, as Administratrix, acting under the judicial supervision of the County Court for Deschutes County, State of Oregon;

(b) All right, title, interest and estate, both legal and equitable, of the person named in subparagraph 1 hereof in and to that certain real property particularly described as Lot 10 in Block 20 and Lot 11 in Block 20, City of Bend, County of Deschutes, State of Oregon, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments arising from the ownership of such property,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 24, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General, Director, Office of Alien Property.

[F. R. Doc. 47-9966; Filed, Nov. 7, 1947; 8:50 a. m.]

[Vesting Order 9881]

MARGARETTA SCHAEFER ET AL.

In re: Margaretta Schaefer vs. Gertrude Feldweiser, et al. File D-28-9677; E. T. sec. 13480.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Babette Zapp, Margaret Wagner, Stephan Rupp, Elise Meier, Betty Meier, Jacob Meier and Rosa Meier, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the sum of $943.27 was paid to the Attorney General of the United States by Joseph J. Dudley, Master in Partition, in the partition proceedings entitled Margaretta Schaefer vs. Gertrude Feldweiser, et al;

3. That the said sum of $943.27 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property in the Attorney General of the United States by acceptance thereof on December 17, 1946, pursuant to the Trading with the Enemy Act, as amended.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 24, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General, Director, Office of Alien Property.

[F. R. Doc. 47-9967; Filed, Nov. 7, 1947; 8:50 a. m.]

[Vesting Order 9882]

LOUISE GAIL SCHMEISSER

In re: T/W of Louise Gail Schmeisser, deceased. File D-28-1654; E. T. sec. 493.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Marianne Elisabeth Johanna Alexa Kulenkampff, Erna Walter, Hildegarde Eugenie Buder, Dorothea Margarete Elisabeth Schenck, Augusta Gail, Kurt Schneisser, Kurt Wolfgang and Margarethe Holstein, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the personal representatives, heirs, next-of-kin, legatees and distributees of Elisabeth Schwarz, deceased, of Marie Schenck, deceased, of Clementine Irle, deceased, of Ferdinand Gail, deceased, and of Johanna Metz, deceased, names unknown, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the trust created under the will of Louise Gail Schmeisser, deceased,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the above-named persons and the personal representatives, heirs, next-of-kin, legatees, and distributees of Elisabeth Schwarz, deceased, of Marie Schenck, deceased, of Clementine Irle, deceased, of Ferdinand Gail, deceased, and of Johanna Metz, deceased, names unknown, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 24, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9968; Filed, Nov. 7, 1947; 8:50 a. m.]

[Vesting Order 9998]

JYURO FUJIKAWA ET AL.

In re: Stock owned by Jyuro Fujikawa and others. D-39-1278-D-1, F-39-1504-D-2, F-39-6067-D-1, F-39-17633-D-1, F-39-6068-D-1, F-39-6069-D-1, F-39-6066-D-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Jyuro Fujikawa, Masasato Kawasaki, Shunichi Nekomoto, Ritsuji Nakashima and Ikko Yamamoto, whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the personal representatives, heirs, next of kin, legatees and distributees of Saisuke Fujimori, deceased, who there is reasonable cause to believe are residents of Japan, are nationals of a designated enemy country (Japan);

3. That the property described as follows: Twenty shares of $25 par value preferred capital stock of Taisho Printing Co., Ltd., 944 Cooke Street, Honolulu 8, T. H., a corporation organized under the laws of the Territory of Hawaii, evidenced by the certificates listed below, registered in the names of and owned by the persons listed below in the amounts appearing opposite each name as follows:

Registered owner	Certificate No.	Number of shares
Jyuro Fujikawa	6	5
Masasato Kawasaki	32	4
Shunichi Nekomoto	34	5
Ritsuji Nakashima	38	4
Ikko Yamamoto	65	2

together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Jyuro Fujikawa, Masasato Kawasaki, Shunichi Nekomoto, Ritsuji Nakashima and Ikko Yamamoto, the aforesaid nationals of a designated enemy country (Japan);

4. That the property described as follows: Five shares of $25 par value preferred capital stock of the aforesaid Taisho Printing Co., Ltd., 944 Cooke Street, Honolulu, T. H., evidenced by a certificate numbered 43, registered in the name of Saisuke Fujimori, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the personal representatives, heirs, next of kin, legatees and distributees of Saisuke Fujimori, deceased, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

5. That to the extent that the persons referred to in subparagraphs 1 and 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 9, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9969; Filed, Nov. 7, 1947; 8:50 a. m.]

[Vesting Order 10003]

MARTHA KRIEG

In re: Stock and bank account owned by Martha Krieg. F-28-26949-A-1, F-28-26949-C-1, F-28-26949-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Martha Krieg, whose last known address is 26 Eglosheimerstrasse, Ludwigsburg Pflugfelden, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. That certain debt or other obligation of the Long Island City Savings Bank, Bridge Plaza North, Long Island City 1, New York, arising out of a Savings Account, Account No. 177,522, entitled Miss Martha Krieg, maintained at the aforesaid bank and any and all rights to demand, enforce and collect the same, and

b. Fifty (50) shares of $1.00 par value common capital stock of the American Zinc Lead and Smelting Company, 1600 Paul Brown Building, St. Louis, Missouri, a corporation organized under the laws of the State of Maine, evidenced by certificate numbered HO43007, registered in the name of Miss Martha Krieg and presently in the custody of Express Exchange, 201 East 86th Street, New York 28, New York, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 9, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9970; Filed, Nov. 7, 1947; 8:51 a. m.]

[Vesting Order 10017]

KONOSUKE IWAKAMI ET AL.

In re: Interest in partnership, personal property, bank accounts and a bond owned by Konosuke Iwakami, also known as K. Iwakami, and others. D-39-18150-C-1, D-39-18150-E-1, D-39-18150-E-2, D-39-1096-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Konosuke Iwakami, also known as K. Iwakami, Juichi Iwakami, Jeanette Yukiko Iwakami and Grace Ryuko Iwakami, whose last known addresses are Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the property described as follows:

a. That certain debt or other obligation owing to Konosuke Iwakami, also known as K. Iwakami, by The Yokohama Specie Bank, Limited, P. O. Box 1200, Honolulu, T. H., arising out of a savings account, evidenced by Receiver's Liability Number 981, entitled K. Iwakami, and any and all rights to demand, enforce and collect the same,

b. That certain debt or other obligation owing to Konosuke Iwakami, also known as K. Iwakami, by Bank of Hawaii, King and Bishop Streets, Honolulu, T. H., arising out of a checking account, entitled K. Iwakami, and any and all rights to demand, enforce and collect the same,

c. One United States of America War Bond, Series E, of $100 face value, bearing the number C7273186E registered in the name of Konosuke Iwakami or Ryuko Iwakami, presently in the custody of Robert K. Murakami, 927 Tenth Avenue, Honolulu, T. H., together with any and all rights thereunder and thereto, and

d. All right, title and interest of Konosuke Iwakami, also known as K. Iwakami, in and to the assets and the proceeds of liquidation of Iwakami Company, a partnership in dissolution at Honolulu, T. H., including but not limited to all those debts or other obligations owing to Konosuke Iwakami, also known as K. Iwakami, by Robert K. Murakami, 927 Tenth Avenue, Honolulu, T. H., including particularly but not limited to a portion of the sum of money on deposit with Bank of Hawaii, Honolulu, T. H., in a commercial account, entitled Iwakami Company,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Konosuke Iwakami, also known as K. Iwakami, the aforesaid national of a designated enemy country (Japan);

3. That the property described as follows: Those certain items of personal property presently in the custody of the National Mortgage and Finance Company, Limited, Smith and King Streets, Honolulu, T. H., evidenced by Custody Receipt Number 175, issued to Robert K. Murakami as Agent for Estate of Ryuko Iwakami, Bishop National Bank, Branch Building, Honolulu, T. H., pursuant to Special License Number 11167 dated June 14, 1943, of Foreign Funds Control, United States Treasury Department, Honolulu Office, as listed below:

i. One lady's white metal ring, set with what is believed to be a medium-sized solitaire diamond,

ii. One lady's yellow gold ring, set with what is believed to be 3 small pearls and 4 small diamonds,

iii. One lady's yellow gold ring, set with a blue-green stone, believed to be an aquamarine,

iv. One lady's yellow gold ring, set with a light purple stone, believed to be an amethyst, and

v. One lady's platinum wrist watch, set with what is believed to be 4 small diamonds, together with a black ribbon bracelet with platinum catch,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Konosuke Iwakami, also known as K. Iwakami, Juichi Iwakami, Jeanette Yukiko Iwakami and Grace Ryuko Iwakami, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 20, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9971; Filed, Nov. 7, 1947; 8:51 a. m.]

[Vesting Order 10042]

YOSHITO FUJITA

In re: Bank account owned by Yoshito Fujita. F-39-6033-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Yoshito Fujita, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: That certain debt or other obligation owing to Yoshito Fujita, by The Yokohama Specie Bank, Limited, Honolulu Office, P. O. Box 1200, Honolulu, T. H., arising out of a savings account, Account Number 12220, entitled Yoshito Fujita, evidenced by Receiver's Liability Number 483, in the amount of $474.30, as of December 31, 1945, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 20, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9972; Filed, Nov. 7, 1947; 8:51 a. m.]

[Vesting Order 10051]

RYOHEI HORIUCHI

In re: Bank account owned by and debt owing to Ryohei Horiuchi. F-39-6077-C-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Ryohei Horiuchi, whose last known address is Fukagawa-ku, Tomioka Nichome, Tokyo, Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows:

a. That certain debt or other obligation of Bishop National Bank of Hawaii, King and Bishop Streets, Honolulu 1, T. H., arising out of a savings account, Account Number 2822, entitled Komao Horiuchi (Attorney-in-fact) for Ryohei Horiuchi, maintained at the branch office of the aforesaid bank located at King and Smith Streets, Honolulu, T. H., and any and all rights to demand, enforce and collect the same, and

b. That certain debt or other obligation owing to Ryohei Horiuchi, by Honolulu Junk Company, Limited, 836 S. King Street, Honolulu, T. H., in the amount of $300, as of December 31, 1945, together with any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 20, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9973; Filed, Nov. 7, 1947; 8:51 a. m.]

[Vesting Order 10056]

CARL LASCHINSKY

In re: Debt owing to Carl Laschinsky. F-39-12936-C-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Carl Laschinsky, whose last known addresses are Cologne, Germany, and Neualtmannsdorf, Kreis, Münsterberg, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation owing to Carl Laschinsky, by Smith, Wild, Beebe & Cades, Attorneys at Law, Honolulu, T. H., in the amount of $2,196.64, as of December 31, 1945, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 20, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9974; Filed, Nov. 7, 1947; 8:51 a. m.]

SOCIETE NORMANDE DE PRODUITS CHIMIQUES

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading with the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant; Claim Number; and Property

Societe Normande de Produits Chimiques, Paris, France; 6679; Property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943), relating to United States Letters Patent No. 2,289,286; and the property described in Vesting Order No. 1028 (8 F. R. 4205, April 2, 1943) relating to United States Patent Application No. 359,739, (which, prior to the vesting thereof, had matured into United States Letters Patent No. 2,289,286). This return shall not be deemed to include the rights of any licenses under the above patents.

Executed at Washington, D. C., on November 4, 1947.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 47-9975; Filed, Nov. 7, 1947; 8:52 a. m.]